

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
NOVEMBER 14, 2006

JOHN F. KENNEDY PARK LODGE
1415 NELSON AVE
FORT DODGE, IOWA

TABLE OF CONTENTS

Call to Order	6
Commissioners Present -	6
Adoption of Agenda.....	6
APPROVED AS PRESENTED.....	6
Approval of Minutes	6
APPROVED AS PRESENTED	6
Directors Remarks	6
INFORMATIONAL ONLY	7
Nonpoint Source Pollution Control Project Contracts.....	7
APPROVED AS PRESENTED	12
Contract – University of Iowa – Monitoring subsurface water quality	12
APPROVED AS PRESENTED	13
Contract - Aquadrill-Jeff Joslyn, Owner/Driller - Drilling for the STATEMAP Geologic Mapping Project.....	13
APPROVED AS PRESENTED	14
Contract – USGS – StreamStats	14
APPROVED AS PRESENTED	15
Contract – Barker Lamer Engineering Consultants -Incorporate a Web-Based Compliance Inspection System into the Existing Underground Storage Tank (UST) Database	15
APPROVED AS PRESENTED	16
Contract – Salem Associates - Renewal for Water Supply Database Programming.....	16
APPROVED AS PRESENTED	17
Final Rule – Adopt IAC 567 Chapter 215– “Mercury Added Switch Recovery from End-of-Life Vehicles ”.....	17
APPROVED AS PRESENTED	17
Mercury Switch Removal, Collection and Recovery Plan	18
APPROVED AS PRESENTED	18
Public Participation.....	18
Scott Smith.....	18
Hal Morton.....	19

Jeff Dworek.....	21
Sara Bixby.....	21
Mary Wittry	21
Cindy Turkle	21
Susan Heathcote.....	22
Barbara Funke	22
Mary Wittry	22
Debra McDonald.....	22
Notice of Intended Action – rescind 567-Chapter 113 “Sanitary Landfills: Municipal Solid Waste” and adopt the following new chapter in lieu thereof as 567-Chapter 113 “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes”	23
APPROVED AS AMENDED	26
Public Participation – Cont.	26
Wayne Fredericks	26
Don Bunce	26
Ray Gaesser	26
Brent Johnson.....	27
Larry Alliger	27
Adam Mason.....	27
Lynn Elm	28
Susan West.....	28
Chris Petersen	29
Eldon McAfee.....	29
Tom Vincent	30
Bob Streit	30

Notice of Intended Action - Chapter 65-Subrules prohibiting liquid manure/settled open feedlot effluent application to soybeans.....	30
APPROVED AS AMENDED	34
Referrals to the Attorney General	34
Cargill, Incorporated / Mort's, Inc. (Iowa Falls) – Wastewater / Solid Waste	34
REFERRED	35
Bernard Cohrs and Cohrs Construction, Inc. (Dickinson County) - Solid Waste / Air Quality	35
REFERRED	36
Winter Mobile Home Park (Chad and Lona Sweitzer) (New Hampton) – Water Supply	36
REFERRED	36
Proposed Contested Case Decision - Goettsch Trucking and Seed, Inc. & Thomas Goettsch.....	36
NO ACTION TAKEN	37
Notice of Intended Action: Chapters 21, 22, 23, 25 and 34, Air Quality Program Rules - Updates, Revisions, and Additions	37
APPROVED AS PRESENTED	40
Notice of Intended Action, Chapter 61, Water Quality Standards, Section 401 Certification of Section 404 Nationwide Permits (NWP's).....	40
APPROVED AS PRESENTED	41
Proposed Rule – Ch. 103.3, 104.26, 112.31, 114.31, 115.31, 118.16, 120.13, 121.8, 122.28, 122.29 and 123.12 & to amend rules 105.14, 106.18 - Financial Assurance Requirements	41
INFORMATION ONLY	42
Proposed Rule - Chapter 81 – Operator Certification: Public Water Supply Systems And Wastewater Treatment Systems	42
INFORMATION ONLY	42
Proposed Rule - Chapter 64 – Sewer Extension Construction Permit Provisions.....	43
INFORMATION ONLY	43
Proposed Rule - Chapters 67, Standards for the Land Application of Sewage Sludge – Updates and Revisions	44
INFORMATION ONLY	44
2007 EPC Meeting Schedule	44
INFORMATION ONLY	45
Monthly Reports.....	45
General Discussion	69

Next Meeting Dates	69
Adjournment	69

MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Chairperson Jerry Peckumn at 9:10 a.m. on November 14, 2006 in the John F. Kennedy Park Lodge, Fort Dodge.

The Commissioners did tour the Mid-American Energy Wind Farm located in Blairsburg and the Energy Efficient House in Fort Dodge the afternoon of Monday, November 13th.

COMMISSIONERS PRESENT -

Suzanne Morrow
Darrell Hanson
Jerry Peckumn, Chair
Donna Buell
Francis Thicke, Vice Chair
Mary Gail Scott
David Petty
Lisa Davis Cook, Secretary
Henry Marquard

ADOPTION OF AGENDA

Motion was made by Henry Marquard to approve the agenda as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Francis Thicke clarified his comments on page 45 from the September meeting. I meant to say that the principles of economics tell us that if more acres near confinement operations are planted to corn that will be balanced by more acres of soybeans elsewhere.

Motion was made by Donna Buell to approve the September minutes. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTORS REMARKS

Liz Christiansen, Deputy Director thanked the Webster County Conservation Board for hosting the Environmental Protection Commission.

The turn was great for the Sustainable Funding ICN meeting last Thursday night. There were about 200 individuals statewide involved in giving input on conservation for Iowa.

INFORMATIONAL ONLY

NONPOINT SOURCE POLLUTION CONTROL PROJECT CONTRACTS

Ubbo Agena of the Environmental Services Division presented the following item.

Commission approval is requested for the following 13 contracts for nonpoint source (NPS) pollution control projects. The total amount of the contracts is \$2,592,420.

The funds for these contracts will come from the FFY2006 Section 319 grant. This EPA grant is awarded specifically for these nonpoint source pollution control projects. Funding from other state and federal programs is also being used to support many of these projects. Most of these projects are multiple year projects and Commission approval is being sought for the entire project periods.

The Section 319 funds to be provided during the entire project period, project descriptions, and the activities supported with the Section 319 funds are provided below.

Contracts with the Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation (IDALS/DSC):

- **Price Creek Water Quality Project - Benton County, \$138,200** - This contract will support a new, three-year project to protect and improve the overall water quality of Price Creek. Price Creek is a warmwater stream with an 18,838 acre watershed, located in east-central Iowa and is a subwatershed of the Iowa River. Price Creek enters the Iowa River at the beginning of the section which is listed on Iowa's Section 303(d) list of impaired waters for bacteria. The primary land use in the watershed is cropland and livestock, however recently housing development has been expanding into the watershed. Livestock access, limited manure and grazing management and inadequate septic systems result in excessive bacteria and nutrient loadings causing water quality concerns for Price Creek. A comprehensive assessment of the watershed identified priority areas to target for BMP implementation. Practices including improved grazing systems, alternative watering systems, manure/nutrient management, streambank stabilization and erosion control will be promoted. In addition, water quality monitoring will be conducted and an information/education program will include: landowner meetings, news releases, meetings, etc. Contract funds will be used to support a full-time project coordinator, associated project costs, and financial incentives for BMP implementation.
- **Upper Catfish Creek Watershed Protection Project, Dubuque County, \$211,600** - This contract will support a new, three-year project to improve the water quality of Upper Catfish Creek. Upper Catfish Creek is a coldwater trout stream, with a 9,300 acre watershed located in northeast Iowa. IDNR stocks Upper Catfish Creek April – June and September – November annually. In addition Upper Catfish is exhibiting naturally reproducing brown trout in approximately one mile of the creek. Monitoring of the stream indicates rising temperatures within the stream, resulting in trout stocking of

the stream to be halted during July and August due to the warm temperature being unable to sustain trout. The majority of the watershed currently is in agricultural use, however there is an increasing trend to convert to urban development. IDNR Fisheries staff has expressed concern regarding the increasing temperature of the creek and importance of the watershed work needed to protect this resource to maintain a viable fishery. An assessment completed as part of a previously funded Development Grant identified priority areas to target for BMP implementation to reduce sediment contributions to the stream. BMPs proposed to address these concerns include: conservation buffers, streambank stabilization, riparian buffers, livestock exclusion, timber stand improvement, terraces, grassed waterways, sink hole diversions, etc. Another component of this project will be to facilitate an inter-jurisdictional (city/county) planning effort to develop a standardized set of guidelines to be applied for development in environmentally sensitive areas. In addition, an information/education program will be conducted to include: landowner meetings, news releases, meetings, etc. Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.

- **Hannen Lake Watershed Project, Benton County, \$135,710** - This is a new, three-year project to protect and improve the water quality of Hannen Lake. Hannen Lake is a county-owned lake located in a Benton County Conservation park in east-central Iowa built in 1960 for recreation and fishing. The lake originally had a surface area of 49 acres with a depth of 27 ½ ft. Recent measurements indicate a reduction in surface area to 37 acres and depth to 21 ft, with portions of the lake being dredged twice. Water monitoring data indicates phosphorus levels are elevated, posing a threat to water quality. The watershed assessment identified the potential sources of the phosphorus contribution as either re-suspension of sediment within the lake, or erosion within the watershed. As in-lake remediation activities are being conducted by the Benton County Conservation Board, this project focuses on the watershed activities necessary to improve the water quality of Hannen Lake. The priority areas to focus BMP implementation are the relatively steep, intensively farmed croplands and overgrazed pastures. BMPs proposed include: animal waste structures, critical area seedings, livestock exclusion and alternative watering, streambank and shoreline protection, grade stabilization structures, water and sediment control basins, grass filter strips, wetlands, etc. In addition, an information/education program will be conducted to include: landowner meetings, news releases, meetings, etc. Contract funds will be used to support the financial incentives for the BMPs and the information/education program.
- **Lake Wapello Nonpoint Source Watershed Project, Davis County, \$274,510** - This contract will support a new, two-year project to protect and improve the water quality of Lake Wapello. Lake Wapello, located in southeast Iowa, is a 271 acre, state-owned lake, with a 1,150 acre park, and built in 1935 for recreational activities. The 5,071 acre watershed is comprised mainly of grazed timber/timber, pasture and grassland. In the early 1990's, significant renovation of the lake and surrounding area was completed, consisting of shoreline improvement and in-lake structures. However, the lake continues to be threatened by excessive sediment and nutrients. Sheet and rill, and gully erosion have been identified as the major sediment contributors to the lake. The majority of the gullies are located on state-owned property or in proximity to the lake, resulting in these areas being designated as high priority for treatment. In addition, one open feedlot was identified as contributing nutrients and bacteria. BMPs proposed include: buffer strips, planned grazing, grade stabilization structures and sediment basins. Watershed outreach activities will emphasize contact with landowners and other stakeholders through public meetings and personal contact with landowners during farm visits. Additional outreach activities will include: field days, tours, brochures, public service announcements,

newsletters, press releases, etc. Contract funds will be used to support a part-time project coordinator and associated costs, and financial incentives for the BMPs.

- **Water Quality in Rathbun Lake: BMPS for Targeted Sub-Watersheds 2006, Wayne County, \$300,000-** This contract will support a new, two-year project specific to the Lower Ninemile Creek (Wayne County), Upper Jordan Creek (Wayne County), and Lower Jordan Creek (Wayne County) watersheds and is a prioritized component of the overall and ongoing efforts being undertaken in the Rathbun Lake watershed. These are three subwatersheds of the south fork of the Chariton River (a major tributary to Rathbun Lake), which is included in Iowa's 2004 Section 303(d) list of impaired waters. BMPs to be promoted include: terraces, grade stabilization structures, sediment control basins, ICM practices, improved grazing practices, riparian forest buffers and filter strips. GIS technology will be used in planning and evaluation of the effectiveness of the BMP implementation. Water quality monitoring will be conducted, along with a comprehensive information/education component. Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.
- **White Oak Conservation Area Nonpoint Source Watershed Project, Mahaska County, \$108,900 -** This contract will support a new, two-year project to protect and improve the water quality of White Oak Conservation Area Lake. The White Oak Conservation Area Lake is a 20-acre publicly owned lake within a 90 acre park area and managed by the Mahaska County Conservation Board (CCB) and is included on Iowa's 2004 Section 303(d) list of impaired waters due to excessive nutrient loading, nuisance blooms of algae, and siltation. Recreational opportunities include: camping, fishing, no-wake boating and swimming. The Mahaska CCB reports algal blooms, visitor complaints, and a reduction in park users by 30% over the past 5 years. In addition, 1/3 of the lake's surface has been lost to siltation, and a fish kill was reported in the summer of 2005. The 560 acre watershed is comprised of 28% corn/soybean rotation, and the remaining identified as "other uses" (park, CRP, timber, pasture, grassland, etc.). The GIS assessment identified gully erosion as the main source of pollutant loads to the lake. Therefore, the project is proposed to address these issues through the acceleration of priority BMPs in identified critical areas. Proposed BMPs include: grade stabilization structures, water and sediment control basins, rotational grazing, seeding, terraces, etc. An information/education program will be conducted and consist of: field days, tours, public service announcements, press releases, newsletters, etc. Contract funds will be used to support financial incentives for BMP implementation and the I/E program.
- **Dry Run Creek Water Quality Project, Black Hawk County, \$216,376 -** This contract will support a new, three-year project to protect and improve the water quality of Dry Run Creek. Dry Run Creek is a warmwater stream, with a 15,177 acre watershed, in northeast Iowa. The stream flows through rural, residential, industrial and commercial areas including the city of Cedar Falls and the University of Northern Iowa, before entering the Cedar River. Dry Run Creek is included in Iowa's 2004 Section 303(d) list of impaired waters due to biological factors. Excessive nutrients, sediment and e-coli are identified as the greatest causes for concern. This project proposes to focus on the agricultural issues, as a Watershed Improvement Review Board (WIRB) project has been approved for funding to address the urban requirements of the watershed. BMPs proposed to address these concerns include: riparian buffers, filterstrips, no-till, grassed waterways, livestock exclusion, streambank stabilization, nutrient management, etc. In addition, an information/education program will be conducted to include:

landowner meetings, news releases, meetings, etc. Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.

- **Mariposa Watershed Project, Jasper County, \$135,125** - This contract will support a new, two-year project to protect and improve the water quality of Mariposa Lake. Mariposa Lake is an 18 acre lake, with a 580 acre watershed located in central Iowa, and managed by the Jasper County Conservation Board (CCB). The lake and the surrounding 151 acre park were developed in 1952 for recreational uses. The watershed is predominately agriculture, with the majority dedicated to row crop production. This land use and the large watershed to lake ratio (32:1) has led to a decline in water quality over the years. The Jasper CCB staff indicates the number of park users has been steadily declining in recent years due to concerns about the water quality, eroding shorelines and diminished fish habitat. Mariposa Lake is included in Iowa's 2002 Section 303(d) list of impaired waters due to excessive phosphorus loading, resulting in algal blooms, and turbidity. A comprehensive GIS based assessment identified priority areas with the highest potential for sediment delivery. BMPs proposed to address these concerns include: grassed waterways, filter strips, terraces, sediment basins, grade stabilization structures, livestock exclusion, timberland improvement, wetland, etc. During the assessment activities, the outlet of the principal spillway was found to be deteriorating and in need of renovation. Other sources of funds will be sought to complete the renovation work of the dam. In addition, an information/education program will be conducted to include: landowner meetings, news releases, meetings, etc. Contract funds will be used to support a part-time project coordinator and associated costs, and financial incentives for the BMPs
- **Silver Creek Water Quality Project, Clayton County, \$263,265** – This contract will support a new, three-year project to protect and improve the water quality of Silver Creek. Silver Creek is a warmwater stream located in northeast Iowa. The majority of land use within the 17,991 acres watershed (87%) is in cropland, specifically corn/bean rotation. (Silver Creek is considered a nursery stream for smallmouth bass that migrate from downstream, however current environmental conditions prevent the expansion of the fishery.) Silver Creek is included in Iowa's 2002 303(d) list of impaired waters due to habitat alterations, siltation and/or organic enrichment. In addition, local observations report increased turbidity after storm events. A comprehensive assessment is currently being conducted and will be completed prior to the project's initiation. The assessment is expected to identify priority areas for targeting BMP implementation, and the project sponsors have committed to following such priorities. BMPs proposed include: terraces, grade stabilization structures, water and sediment control basins, grassed waterways, pasture management, fencing, CRP, streambank protection, animal waste management, etc. In addition, an information/education program will be conducted to include: field days, landowner meetings, news releases, meetings, volunteer water quality monitoring, etc. Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.
- **Silver Lake Water Quality Project, Palo Alto County, \$131,500** - This contract will support a new, three-year project to protect and improve the water quality of Silver Lake. Silver Lake is 640 acre natural lake with an 8,370 acre watershed located in northwest Iowa. The lake is a recreational resource for the area, with approximately 4,000 visitors per year, and used for activities such as fishing, boating, wildlife, etc. The majority of land use in the watershed is cropland, (corn/bean) with 6 confined feeding operations, 3 cow/calf grazing systems and one open feedlot. In addition, the watershed has a significant tile drainage system which outlets into tributaries of the lake. Local observations include

reduction in depth over the years, from 15 - 18 feet, to a current average of 4.8 feet. Silver Lake is included in Iowa's 2004 303(d) list of impaired waters for turbidity and algae. A comprehensive watershed assessment was completed using funds from a IDALS/DSC Development Grant and identified priority areas to be targeted for BMP implementation. BMPs proposed include: grade stabilization structures, grassland/pasture incentives, livestock exclusion, waterways, wetlands filter strips, terraces, etc. Septic system renovations were also identified as a priority need, and other funding sources will be sought to promote such. In addition, an information/education program will be conducted to include: field days, landowner meetings, news releases, meetings, volunteer water quality monitoring, etc. Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.

- **Fox River Impaired Waters Treatment, Appanoose and Davis Counties, \$258,939** - This contract will support an expansion of a previously IDALS/DSC funded project to protect and improve the water quality of the Fox River. Fox River is a warmwater stream located in southeast Iowa. Fox River has been the recipient of several past grants from the IDALS/DSC to focus on sediment concerns. This project proposes to focus on a 74,079 acre subwatershed of the Fox River and target livestock waste issues. This section of the Fox River is included in Iowa's 2002 Section 303(d) list of impaired waters due to low dissolved oxygen and high levels of ammonia-nitrogen. A comprehensive assessment has been completed and identified high priority livestock operations, including sites with unrestricted access to the stream and concentrated livestock operations. BMPs were identified to restrict access, filter runoff, improve pasture, and assist with proper manure management. BMPs proposed include: diversions, water and sediment control basins, grade stabilization structures, alternative watering, livestock exclusion, seedings, heavy use, etc.. In addition, an information/education program will be conducted to include: landowner meetings, news releases, meetings, etc. Contract funds will be used to support the financial incentives for the BMPs. (Support for project staff is being provided through other funding sources.)
- **Utilizing FLEVAL to Reduce Bacteria in the Upper Iowa River, Winneshiek County, \$306,940** - This contract will support a new, two-year project to protect and improve the water quality of the Upper Iowa River. The Upper Iowa River (UIRW) is considered a high quality resource by the State of Iowa, specifically for its recreational (fishing, swimming, canoeing, kayaking, etc.) and economic value for northeast Iowa. The UIRW is included in Iowa's 2004 Section 303(d) list of impaired waters due to high bacteria levels, sedimentation and nutrient loading. This project proposes to specifically address the bacteria impairment. The UIRW has approximately 1,600 livestock producers, with the majority of these being small operations and do not meet the definition of Confined Animal Feeding Operation (CAFO). These small operations face a number of challenges including: lack of off-stream watering sources, limited pasture/feedlot locations and funding for high cost feedlot improvements. In-stream pasturing and near stream feedlots are common throughout the UIRW. Open feedlots in the UIR corridor have a high potential of contributing high levels of bacteria to the stream due to their proximity. This project proposes to complete the Feedlot Evaluation (FLVAL) to evaluate all open feedlots within the corridor of the Upper Iowa River as well as other feedlots that apply for funding under this project. FLEVAL is an electronic based open feedlot evaluation tool developed by Minnesota. The results of FLEVAL will be used to determine sites that will receive funding as part of this project. In addition, an information/education program will be conducted to include: distributing informational and promotional materials, press releases, and promoting FLEVAL to other SWCDs.

Contract funds will be used to support a project coordinator and associated costs, and financial incentives for the BMPs.

- **Whitebreast Creek Watershed Project, Warren, Clarke, Lucas, and Marion Counties, \$111,355 -** This contract will support a two-year extension of an on-going project to protect and improve the water quality of Whitebreast Creek. This project is sponsored by the SWCDs, with the Warren SWCD acting as the lead agency. This project was originally proposed to restore the Whitebreast Creek Watershed and assist with the implementation of a proposed COE Section 206 project. Although progress is being made in implementing BMPs within the Whitebreast Creek watershed, lack of funding for the COE Section 206 program has stalled the progress of the overall project. As the COE Section 206 project was a key component to the overall watershed project, this lack of funding has made it necessary to reassess the original plan. In addition, a comprehensive assessment has not been completed. Without such, assurances the most effective placement of proposed BMPs is occurring cannot be given. This project is proposing to support the initial efforts to complete a comprehensive watershed assessment and to reprioritize and target project implementation activities. Upon completion of the assessment, the project plan will be evaluated and a determination made if a viable project can be developed to reflect the diminished COE Section 206 support. Contract funds will be used to support a full-time staff person, watershed assessment activities and other related expenses.

Motion was made by Henry Marquard to approve the contracts as presented. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – UNIVERSITY OF IOWA – MONITORING SUBSURFACE WATER QUALITY

Tim Hall, Chief of the Geological and Land Quality bureau presented the following item.

The Department requests Commission approval of a contract in the amount of \$54,000 with Dr. Thanos Papanicolaou (University of Iowa) to monitor subsurface water quality.

One of the fundamental processes that controls contaminant fate and transport from the land surface to adjacent water bodies is the rate of infiltration of rainwater and the amount of unfiltered water that flows over the land surface. There is still a need to define spatial variability of infiltration along a hillslope using new research methodologies and techniques. Spatial variability may be caused due to differences in soil, landform and management practices.

The contract will help to answer questions of how slope, soil type and management practices collectively affect the vertical movement of pollutants associated with contaminated water during infiltration. The work will help define vertical spatial variability of pollutants (concentration) along a soil column using new research methodologies and techniques including field studies on Clear Creek watershed in east-central

Iowa. The project will also build in a data-relay system that transfers information back for use in standard TMDL and watershed planning models.

The primary products of the project would be as follow:

- 1) Semiempirical relations describing the dependence of conductivity as function of soil aggregate attributes, landform and management conditions.
- 2) A spatial variability map for conductivity values and pollutant concentrations within the Clear Creek Watershed and provide comparisons with other sites.
- 3) A detailed technical report describing the collective effects of soil mineralogy, landform and management practices on infiltration and spatial pollutant concentrations. The report would be thoroughly illustrated to show the field conditions.

This contractor was chosen because of his extensive experience in monitoring infiltration of rain water and potential impacts on surface erosion. The University of Iowa's hydraulic research institute, IHR-Hydroscience and Engineering, has been at the forefront of the development and application of field monitoring and laboratory physical modeling for addressing hydraulic and sedimentation problems.

Funding comes from Environment First – Infrastructure Funds. The language within the contract addresses the issue of suspended funding, if it's not available for FY08.

Motion was made by Francis Thicke to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - AQUADRILL-JEFF JOSLYN, OWNER/DRILLER - DRILLING FOR THE STATEMAP GEOLOGIC MAPPING PROJECT

Tim Hall, Chief of the Geological and Land Quality bureau presented the following item.

The Department requests Commission approval of a contract in the amount of \$44,000 with Aquadrill for November 2006-June 2007.

Contract Drilling for the STATEMAP Mapping Project – Impaired Watersheds

Upper Iowa and Yellow River Watershed-Burr Oak and Highlandville Quadrangles, Cooperative Mapping with the Iowa Cooperative Soil Survey and NRCS in Cedar Co. – Cedar Bluff and Stanwood Quadrangles and Cooperative Mapping with the Iowa Cooperative Soil Survey and NRCS in Bremer Co.- Bremer Quadrangle

The STATEMAP program is a 50% match competitive grant program. The federal government pays 50% and state government pays 50 of project expenses.

This contractor was the lowest bid received for core drilling in unconsolidated sediments and in bedrock.

All of the maps done are available in PDF format on the DNR website.

Motion was made by David Petty to approve the contract as presented. Seconded by Darrell Hanson. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – USGS – STREAMSTATS

Tammie Krausman of the Environmental Services Division presented the following item.

The Department requests Commission approval of a contract in the amount of \$163,900 with the USGS for calculating waste-load allocations.

The IDNR Water Resources Section is responsible for calculating waste-load allocations (WLAs) for NPDES permits. A WLA calculates the maximum quantity of pollutants each point-source discharger is allowed to release and still maintain the water quality standard for that water body. One parameter of a WLA is the flow in the stream receiving the discharge. To be protective most of the time, the stream flow used in the WLA is a statistically derived critical low flow value.

The low-flow statistics, such as 1Q10, 7Q10, 30Q10, 30Q5 are calculated in two ways. If the stream has stream gauge data the value has already been calculated by USGS because they maintain the data. If there is no stream gauge—which is the case for most of Iowa's streams—the critical low flows are estimated by comparing the characteristics of the stream receiving the discharge and a similar stream that has a gauge. This method is rather subjective and is very time consuming. DNR needs an efficient and scientifically-based technique for estimating these low-flow statistics on streams without gauges.

StreamStats is a computer application developed by USGS for calculating stream flows—both low flows used in WLAs and high flows used by engineers to design flood resilient bridges and other structures. It uses GIS technology to allow a user to click on a stream segment displayed on a map on screen and will return the flow values for that segment immediately. The application will use multiple regression equations based on the characteristics of the watersheds of streams with gauges and those without. DNR staff will assist USGS in developing these regression equations and the GIS data layers that contain the watershed characteristics for Iowa watersheds. Iowa DOT has also contracted with USGS to include the high flow information in StreamStats and will share in the cost of development. Because StreamStats is a government tool it will be available to anyone with internet access.

This proposal was prepared on the basis of meetings between the Iowa Department of Natural Resources (IDNR) and the U.S. Geological Survey (USGS) on August 11 and October 10, 2006, on review comments and suggestions provided by the National StreamStats Team on August 21 and October 12, and on email discussions with IDNR dated September 15 to 29.

USGS shares the cost of developing StreamStats and the Iowa Highway Research Board has a similar project already underway to calculate flood flows. DNR will use wastewater permit fees for their portion of the expenses.

Iowa Highway Research Board budget for StreamStats

	IHRB revised October 2006 proposal				
	FY 2006	FY 2007	FY 2008	FY 2009	Total
IHRB	58,822	49,500	89,100	46,200	243,622
USGS	43,178	40,500	72,900	37,800	194,378
Total	102,000	90,000	162,000	84,000	438,000

DNR budget for StreamStats

	FY2007	FY 2008	FY 2009	Total
IDNR	53,900	53,900	56,100	163,900
USGS	44,100	44,100	45,900	134,100
Total	98,000	98,000	102,000	298,000

Tammie Krausman said that this is a one time contract fee even though the project will take about three years.

Motion was made by Darrell Hanson to approve the contract as presented. Seconded by Henry Marquard. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – BARKER LAMER ENGINEERING CONSULTANTS -INCORPORATE A WEB-BASED COMPLIANCE INSPECTION SYSTEM INTO THE EXISTING UNDERGROUND STORAGE TANK (UST) DATABASE

Tim Hall, Chief of the Geological and Land Quality bureau presented the following item.

Commission approval is requested for a four month \$36,000 service contract with Barker Lemar Engineering Consultants. Under this contract, Barker Lemar will develop and implement a system that will: 1) compile compliance inspection information submitted through a web-based system (System); 2) compile compliance inspector certification, and inspector company licensing information; 3) compile UST installer, liner, tester and installation inspector licensing information; 4) allow for interfacing with the existing Underground Storage Tanks (UST) SQL database; and 5) produce reports. The System and all accompanying forms are to be developed in C# .NET 2.0 Framework with the ability to integrate with the UST SQL database.

Background:

During SFY06, Chapter 135 was modified to incorporate a new compliance inspection process for USTs in Iowa in which certified compliance inspectors perform compliance inspections while DNR inspectors conduct audit inspections of the certified compliance inspections and enforcement. The rules require each regulated UST facility to be inspected biennially. The exception is 2007 when all facilities in Iowa will be inspected. Under the new process, certified inspectors will complete inspections following DNR requirements and reporting format that includes electronic transfer of inspection data.

Purpose:

The System will allow field inspectors (both DNR inspectors and certified compliance inspectors), to access the web-based UST database to enter information from the field inspection. The System will have capabilities to produce inspection reports to be used for compliance and enforcement activities. The System will also have the ability to track inspection and compliance schedules. Inspection reports will be available for public view through the web application and all reports should be developed using SQL Reporting Services and Visual Studio. The System will interface with the UST database to receive batchloads of inspection reports and allow for updating of information from remote sites.

Consulting Firm Selection Process:

Using the Informal RFP Process, the Department (UST Section) posted the RFP for targeted small businesses, and then solicited bids from selected vendors. Prior to the due date for proposals, the UST Section hosted a meeting to demonstrate the existing UST database for interested vendors. Three vendors submitted proposals that were scored based on technical merit and on costs. Four people comprised the evaluation team – two IT staff, and two UST staff.

Based on the evaluation and total scores, we recommend that this service contract be awarded to Barker Lemar Engineering Consultants.

Motion was made by Henry Marquard to approve the contract with Barker Lemar as presented. Seconded by Sue Morrow. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT – SALEM ASSOCIATES - RENEWAL FOR WATER SUPPLY DATABASE PROGRAMMING

Tammie Krausman of the Environmental Services Division presented the following item.

The Department requests Commission approval for a second one-year contract renewal with Salem Associates to perform database programming and support for the DNR Water Supply program.

Salem Associates was awarded an initial one-year contract in November of 2004. During the original 2005 contract period, Salem completed the conversion of existing Water Supply permitting and operator certification database to a VB.net format. This conversion provided better (faster) performance and ease of maintenance. During the 2006 renewal period, Salem completed the conversion of the Water Supply enforcement database to a VB.net format, and began working on an Electronic Sanitary Survey (ESS) application for use by field office staff in conducting public water supply inspections.

A second one-year renewal is requested to complete the modification of the Electronic Sanitary Survey application and to several other Water Supply database programming applications.

The cost for the renewal period, January 1, 2007 through December 31, 2007, will not exceed \$145,600, or 52 weeks at \$70/hour (same hourly rate as the 2006 renewal period).

Funding for this contract comes from Drinking Water State Revolving Fund (DWSRF) State Program Management Set-Aside (Cost Center 7159).

Motion was made by Donna Buell to approve the contract with Salem Associates as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

FINAL RULE – ADOPT IAC 567 CHAPTER 215– “MERCURY ADDED SWITCH RECOVERY FROM END-OF-LIFE VEHICLES ”

Alex Moon, Environmental Program Supervisor in the Energy & Waste Management Bureau presented the following item.

The Commission is requested to approve the attached Notice Final Rule to adopt IAC 567—Chapter 215 “Mercury Added Switch Recovery from End-of-Life Vehicles.” This rulemaking is in response to House File 2362, Mercury Free Recycling Act, passed by the 2006 Iowa Legislature.

A public hearing was held October 17 and written comments were accepted from September 27 through October 17. One comment was made in support of the proposed rule, no other comments were received. The final rule is the same as was presented in the Notice of Intended Action with only minor wording changes made by the code editor.

The rule is taken directly from the legislation that was passed with only minor formatting changes.

The Mercury Free Recycling Act includes a provision that will repeal the act if a national agreement is reached that has a 90% target recovery rate and a funding mechanism that provides for the total cost of the program. A national agreement has been reached, however because it has a recovery goal of less than 90%, it will not replace Iowa’s program at this time.

The Commission is requested to approve this Final Rule.

Motion was made by Darrell Hanson to approve Final Rule – Chapter 215 as presented. Seconded by Sue Morrow. Motion carried unanimously.

APPROVED AS PRESENTED

MERCURY SWITCH REMOVAL, COLLECTION AND RECOVERY PLAN

Alex Moon, Environmental Program Supervisor of the Energy & Waste Management Bureau presented the following item.

In compliance with House File 2362, Mercury-Free Recycling Act, the End-of-Life Vehicle Solutions Corporation (ELVS) has submitted a plan for the removal, collection, and recovery of mercury added switches from trunk and hood lights in vehicles. This plan is submitted on behalf of the following auto manufacturers: BMW of North America, LLC; Daimler Chrysler Corporation; Ford Motor Company; General Motors Corporation; International Truck & Engine; Mack Trucks, Inc; Mitsubishi Motors North America, Inc; Nissan North America, Inc; Subaru of America, Inc; Volkswagen of America, Inc; and Volvo Trucks North America.

The Department, ELVS and the Iowa Waste Reduction Center are working together to notify vehicle recyclers of the program. Once a vehicle recycler has signed up for the program, ELVS will send the vehicle recyclers a mercury switch collection kit. The kit will contain collection containers, Universal Waste labels, and information on how to locate and remove the switches. As the vehicle recyclers remove the switches, they will keep a log of the Vehicle Identification Numbers (VIN). Once a vehicle recycler has filled the container with mercury switches or one year from the date the first mercury switch was placed in the container, the container and VIN log will be shipped to the company recycling the switches. ELVS will pay the shipping recycling costs and will ship a replacement container to the vehicle recycler. Once ELVS has verified that the switches were removed from a vehicle that contained a mercury switch, they will pay the vehicle recycler \$5 for each switch recovered. Mercury switches from ABS G-force sensors and switches that do not have a corresponding VIN number will be properly recycled by ELVS at no charge, however a bounty will not be paid for those.

The Commission is requested to approve the Mercury Switch Removal, Collection and Recovery Plan.

Motion was made by Darrell Hanson to approve the plan as presented. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

SCOTT SMITH with the Boone County Landfill submitted the following comments.

As I and others have stated before on previous visits to the Commission, we feel that the process of developing these proposed rules have failed to actively involve the professionals and experts in the solid waste management industry. The latest version of the rules once again contain significant additional requirements not contained in previous versions.

Today, I want to focus on the issue of promulgating state administrative rules that are more restrictive than federal requirements. The preamble to today's NOIA includes on page two a paragraph that refers to Iowa Code Section 455B.105(3) that requires the commission to identify its intent to consider rules more restrictive than federal requirements.

Unfortunately, this NOIA does not completely follow the requirements of 455B.105(3) in that it does not contain the last sentence of this very important requirement. The complete requirement including the last sentence (bold and underlined added) reads as follows:

*“When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more stricter requirement. **In addition, the commission shall include with its reasoning a financial impact statement detailing the general impact upon the affected parties.**”*

Since the development of this rule-making began, I and my colleagues have repeatedly asked the Department to determine the financial impact of the proposed rules on the affected parties. We have been repeatedly told by the Department that determining the financial impact of the proposed rules is the responsibility of the regulated community, not the Department's. Further, they have told us that they only have to determine the financial impact on the Department.

Obviously, the Legislature felt otherwise or it would not have included this requirement in the Commission's delegated powers and duties under 455B.105(3).

Also, in the NOIA's preamble, the Groundwater Protection Act is referenced. It is the policy of the state...*“to prevent further contamination of groundwater from any source to the maximum extent practical.”* “Practical” is quite different from “possible” and carries associated qualifications. It might often times be possible to do something, but not practical. Not considering the financial impacts of a proposed rule designed to implement more restrictive requirements than its underlying federal basis is not carrying out the policy of the state in good faith.

I hereby request the Commission delay consideration of the requested NOIA for the following reasons:

- 1) The NOIA is incomplete in that it fails to fully include the stated requirements of 455B.105(3) in its preamble;
- 2) The Department has failed to include in its reasoning a financial impact statement for those portions of the proposed rule that are more restrictive than federal requirements, and;
- 3) 455B.105 (3) also states that...*“It is the intent of the general assembly that the Commission exercise strict oversight of the operations of the department.”*

HAL MORTON with DMC Regional Waste Commission submitted the following comments.

The NOIA for 567-113 has not addressed any of the concerns raised by me or others from regulated community at previous EPC meetings. IN fact, the current NOIA has compounded the concerns in a few important ways.

The NOIA package included major new sections with broad fiscal impacts on cities and counties, many of which were not directly affected by previous drafts. The proposed changes to 567-102 are not specified in the NOIA Title (nor are proposed changes to 567-104 and 111), and have not previously been mentioned as a topic of concern by IDNR staff. As an incentive to close outdated and marginally viable landfills, federal Subtitle D rules specifically exempted landfills closing prior to October 1994 from all of the Subtitle DNR requirements except final cover. The NOIA on today's agenda would remove these federal exemptions and require landfills closed for over 12 years to install the same kinds of leachate collection and groundwater monitoring systems required at new facilities. In addition, they would have to pose full financial assurance instruments. The proposed leachate collection requirements for long-closed landfills are physically impossible. The other proposed requirements are prohibitively expensive. Since the vast majority of these facilities are owned by cities and counties, the cost of these unfunded mandates would be paid through either tax revenue or reopening of these old facilities. When confronted with these possibilities at the November ISOSWO board meeting, IDNR staff indicated that some of these new insertions into the NOIA may need to be reconsidered.

Another surprise in the latest "final draft" rule is a long section requiring a 30 day minimum public comment period on every IDNR action, regardless of scale of impact. Many of the routine permit actions by IDNR have no potential public impact, or have a time constraint making this requirement impractical. In addition, the expense of posting public notice, and holding public hearings when requested, is not accurately reflected in the "no fiscal impact on state agencies" statement in the current NOIA.

These two unexpected insertions since the first "final draft" rule was presented as an information item in August underscore two major concerns I have raised previously. IDNR has made no attempt to detail the general financial impact of each proposed rule on all affected parties – a requirement for this Commission under 455B, particularly when proposing rules more stringent than federal standards.

Additionally, IDNR staff efforts to avoid or minimize technical discussion on the proposed rule have resulted in a rushed and poorly crafted NOIA with ramifications far exceeding those described in the preamble. The department established a rulemaking update bulletin board last spring on their website, where they planned to post correspondences, comments and responses related to the proposed rulemaking. However, nothing has been posted to this bulletin board since June 30th, in spite of several comment submittals. In October, when asked about the technical comments submitted by Waste Management, Inc. in early August, IDNR staff indicated they would not post the comments until they had read them. The absence of these comments on the website is even more troubling because the timeframe corresponds to the redrafting of the previous "final draft".

The NOIA presented today is misrepresented by its preamble and its fiscal impact note. Many of the technical problems in the current draft could have been avoided through open discussion with technical experts throughout the state. The only requirement in the proposed rule of the true urgency is a definitive compliance date for meeting the state's liner standards. The proposed October 2007 date is supported by the statewide industry and preapproved by EPA.

I urge the EPC to reject this NOIA, and to direct DNR staff to 1) return in December with a NOIA containing just the compliance date, and 2) establish a technical advisory workgroup to work with IDNR staff to develop other improvements to existing state permit rules based on well-defined environmental or engineering problems.

JEFF DWOREK with Metro Waste Authority said that there are a few issues of concern with Chapter 113 rules. We do have to get these issues resolved. We recommend that the DNR hire an independent engineering firm with no ties to Iowa, to review the comments received and the overall rule. I know DNR has done this in the past.

What is the time frame for implementation? Another item of concern is that budget reporting is significant part of the rule that needs to be outlined.

SARA BIXBY, representing South Central Iowa Solid Waste said that their landfill permit expires in September 2007. We need to the re-application process now. We ask that you wait on the new rules so that the design can be implemented. Why do the rules need to be updated now? Some of the rules are beyond the federal requirements.

We ask that you hire an independent engineer to review all of the public comments and rule.

We would like to move forward with the NOIA because we need the rules.

MARY WITTRY, representing Carroll County Solid Waste addressed Chapter 113 rule. This rule is a very contentious rule. It needs to address a financial plan and impact on the Solid Waste Agencies. After reading this rule, I do not know where it states when this will be implemented. Is it immediately or two months after passing or 2009? I urge the DNR to adopt an implementation schedule and a plan for financial impacts.

The rulemaking took six years to complete and now we only have six months to address our concerns.

I would encourage the DNR to hire an independent engineering firm outside of Iowa that could provide an unbiased and technical response that is very much needed.

CINDY TURKLE, with Turkle-Clark Environmental Consultants addressed the following concerns with Chapter 113.

In the past years, there has been consensus with the regulated community and the DNR (even if there was disagreement) but not with this rule.

From the beginning, there was no opportunity to get feedback from the DNR staff on why these rules are exceeding the federal government rules. That's our biggest concern. EPA's rule is only 45 pages long and these are way over 100 pages.

I'm glad to hear that they have closed the regulations on the closed landfills, because that was a major concern. I'm concerned with all of the requirements asking for public notice, public hearings, etc. just to move a scrap metal pile. We have landfills that have already built themselves in compliance with subtitle D requirements and now with these new rules they will be considered an open dump. Landfills have spent millions of dollars to get into compliance with federal regulations. What constitutes a need for excessive regulations?

Henry Marquard asked Cindy to point out exactly where the DNR has gone wrong with rule, since they are obligated by federal requirements. Where have they gone beyond? I would urge the interested groups to find out each area where it's impractical to go beyond the federal rules, if that's the case.

Cindy Turkle said that the regulations do not explain any need to go beyond the federal requirements. Chapter 455B of the Iowa Code states that the Commission needs to address why the rules need to go beyond the federal rules.

Donna Buell asked them to bring your detailed rule changes, concerns and suggestions to the EPC to review.

Cindy Turkle said that they will since the DNR has not looked at them. If we approve the NOIA, then we only have one more chance to work through our concerns. In past rulemakings, we have worked with the DNR and reached some sort of consensus. We want to know why we have to double our monitoring wells, or why public notice is needed to move a scrap metal pile. She also asked if a Commission member could serve on the technical board to see the dialogue.

SUSAN HEATHCOTE, representing the Iowa Environmental Council said that we need to move forward with these rules. We need to keep in mind that these rules help protect our groundwater. That is the reasoning behind these rules. The Environmental Council would like to be involved in any other stakeholder or public meeting regarding this rulemaking.

BARBARA FUNKE, with the Adair County Sanitary landfill and Recycling Center answered a Commissioner's question back from August. "Why are only half of the landfills not subtitle D compliant?" I can only speak for the landfill that I represent. The answer for this facility is that for the last nine years, every three years, the landfill permit was renewed with the State of Iowa by the DNR. This includes old and new staff during this nine year period. If current Iowa law is not being enforced, the DNR not willing to work with each landfill become compliant in a specific time table, then why implement a process that will double or even triple the requirements now. The landfill industry is the most innovative and environmentally friendly and willing to work with the regulatory department in the State of Iowa. If you were to build a new home, you would hire a contractor to construct your new home, would you expect that contractor to start building your new home without floor plans? Or would you be willing to pay over and over and over again until the contractor built your home the way the plans showed it?

MARY WITTRY, representing ISOSWO said that that I would encourage the dialogue to start immediately.

DEBRA McDONALD, Engineer with Waste Management said that Chapter 113 rules are complicated. We are happy to continue and to provide technical detail. There is more work to be done. We would like

to keep up the work with the DNR and to come up with a good set of rules that make sense. I believe we are all here to help protect the environment.

Motion was made by Henry Marquard to take up Item 13 immediately. Seconded by Donna Buell. Motion carried unanimously.

NOTICE OF INTENDED ACTION – RESCIND 567-CHAPTER 113 “SANITARY LANDFILLS: MUNICIPAL SOLID WASTE” AND ADOPT THE FOLLOWING NEW CHAPTER IN LIEU THEREOF AS 567-CHAPTER 113 “SANITARY LANDFILLS FOR MUNICIPAL SOLID WASTE: GROUNDWATER PROTECTION SYSTEMS FOR THE DISPOSAL OF NON-HAZARDOUS WASTES”

Alex Moon, Environmental Program Supervisor of the Energy & Waste Management Bureau presented the following item.

For the Commission’s approval is a Notice of Intended Action to rescind 567-Chapter 113 “Sanitary Landfills: Municipal Solid Waste” and adopt the following new chapter in lieu thereof as 567-Chapter 113 “Sanitary Landfills for Municipal Solid Waste: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes.”

92 percent of Iowans depend on groundwater as a drinking water source. It is essential to health, welfare, and economic prosperity of all citizens in Iowa that groundwater is protected and that the prevention of groundwater contamination is of paramount importance. Furthermore, Iowa’s Groundwater Protection Act sets the policy of the state as “... to prevent further contamination of groundwater from any source to the maximum extent practical.” The purpose of this revised chapter is to improve the current regulations by preventing groundwater contamination from municipal solid waste (MSW) landfills to the maximum extent practical.

Revisions to the rules regulating municipal solid waste disposal have been included in the Department’s Solid Waste Rules Revision Plan since November 2000. At that time, regulations for all sanitary landfills were found in 567-Chapter 103. Since the regulations did not differentiate between municipal solid waste, construction and demolition waste, coal combustion residue or industrial waste landfills the initial step in the plan was to separate each type of sanitary landfill into its own rule chapter. This was accomplished in December 2002. The plan also called for subsequent rulemaking to revise our rules for MSW landfills so that they more closely mirrored the U.S. Environmental Protection Agency’s (EPA) requirements found in 40 Code of Federal Regulations (CFR) Part 258 (commonly referred to as RCRA Subtitle D standards). This rulemaking is intended to implement all parts of the RCRA Subtitle D standards.

Since Iowa’s receipt of delegation and approval to administer RCRA Subtitle D in 1997, there has been a lack of clarity and consistency in regard to the approval of vertical and horizontal expansions of MSW landfills. The uncertainty in regard to the applicability of liner requirements and other federal requirements to vertical expansions in particular has caused confusion to the regulated community and may have led to

continuing noncompliance with the federal requirements. 32 of the 59 operating landfills in Iowa do not have a Subtitle D compliant liner. Other states allowed a transition period for non-compliant landfills and the EPA recommended that Iowa do the same by implementing a compliance schedule for updating our current rules and by adding a deadline for landfills to comply with all of the federal requirements including liner systems. The Department's compliance date for RCRA Subtitle D compliance is October 1, 2007.

States that modify their Subtitle D program must notify the EPA of the modifications and may be required to resubmit an application to the EPA for program approval. 40 CFR Part 239, which was not in place when Iowa received program approval in 1997, specifies the requirements that state permit programs must meet to be determined adequate by the EPA and the procedures EPA will follow in determining the adequacy of state Subtitle D permit programs. The EPA has requested that Iowa resubmit an application for program adequacy as part of this rulemaking effort and that the approval of our municipal solid waste permitting program will be guided by 40 CFR Part 239.

Some of the more significant changes to 567-Chapter 113 that impact MSW landfills include:

- Improving contaminant detection by decreasing spacing in between down gradient monitoring wells from 600 feet to 300 feet and determining monitoring well placement through groundwater flow modeling.
- Implementing the minimum federal requirements for groundwater monitoring. The current list for routine sampling at MSW landfills consists of approximately 9 parameters. There are 62 parameters under Appendix I in RCRA Subtitle D;
- Modeling of alternative clay liners to determine their ability to prohibit groundwater contamination. This will include correcting language in the current 567-Chapter 113 to link the point of compliance modeling to the groundwater monitoring system; and,
- Implementing the EPA's new rules to allow states to issue research, development and demonstration permits for the addition of liquids into a MSW unit which was previously prohibited and allowing flexibility to final cover requirements;
- Adding a compliance date of October 1, 2007 for all MSW landfills to meet the minimum federal requirements for operating over a RCRA Subtitle D compliant liner with a leachate collection system;
- Extending the length of permit issuance from 3 years to 5 years;

Although new requirements are being added with this rule making, the proposed rules provide flexibility through variances for MSW landfills to propose alternative methods so long as the same goals of monitoring environmental impacts and ultimately protecting the public are met. This rulemaking also updates references to 567-Chapter 113 contained in other solid waste related rules. Subrules that are no longer applicable to 567-Chapter 113 (i.e., solid waste incinerator operator certification and postclosure requirements for landfills closed prior to October 9, 1994) are moved to other solid waste related rules. In addition, 567-Chapter 111 "Financial Assurance Requirements for Municipal Solid Waste Landfills" is being rescinded and will be incorporated in its entirety as rule 567-113.14.

Furthermore, Iowa Code Section 455B.105(3) requires that whenever the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements

more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires and shall state the reasons for proposing or adopting the more restrictive requirements. Proposed 567-Chapter 113 contains some variation from the federal requirements and addresses necessary areas of regulation not specifically addressed in the federal requirements. The determination of whether these provisions are more restrictive than the federal requirements will vary, dependent upon site-specific factors and may be subjective. Therefore, a section is provided in the rule preamble below that provides information in regard to variance from or addition to the federal program, regardless of whether such variation is, in fact, more restrictive than the federal language.

Alex Moon asked to strike out sections:

- 102.16(10) Leachate control system operating requirements
- 102.16(11) Control of explosive gases
- 102.16(12) Financial assurance

Motion was made by Darrell Hanson to approve this amendment of striking the above sections. Seconded by Sue Morrow. Motion carried unanimously.

Alex moon said that there will be three public hearings held in January across the state.

Motion was made by Darrell Hanson to approve the NOIA with the amendment. Seconded by Sue Morrow.

To comment on the responsiveness summary and the suggestion to hire an independent engineering consultant. The Responsiveness summary is the Department's response and if you were to ask a third party then you're stating that you don't trust the DNR.

We have not turned down any requests to meet with people regarding these rules.

Implementation for the leachate liners is October 2007. EPA suggested that we put in a compliance date and they approved our recommendation. Everyone seems to be okay with the date.

Donna Buell read IAC 455B.105(3): "When the commission proposes or adopts rules to implement a specific federal environmental program and the rules impose requirements more restrictive than the federal program being implemented requires, the commission shall identify in its notice of intended action or adopted rule preamble each rule that is more restrictive than the federal program requires....

From what I see it looks like the Department has gone through each section and stated the reasons for adopting more strict requirements on pages 8-21 of the rulemaking.

Jon Tack said that the federal rules are not that long, so we have explained in more detail on what they mean. Not all sections are more restrictive.

Darrell Hanson asked about the fiscal impact statement.

Jon Tack said that the fiscal impact is included but there are so many variables. Some landfills are in compliance and others are not.

Mary Gail Scott said that she can't believe that the DNR can't come up with some idea on how much financial impact this will have. Assume or guess what is believed to be the most accurate.

Alex Moon said that we have had a third party contractor from out of state to help landfills through the transition period. They held workshops that addressed the cost impacts of the subtitle D requirements.

Mary Gail Scott asked where the extra garbage will go if landfills have to close? And do the other landfills have the capacity to handle all of the extra trash?

Donna Buell said that it's not only the cost impacts but we should include listing what the benefits are of having a liner, etc.

Mary Gail Scott asked the DNR to review the fiscal impact statement on pages 184-186 of the rule. Is there really no impact to the state? (as marked on the rule)

Jerry Peckumn asked if the Department could move forward with the understanding that we would like to see a review of the fiscal impact statement.

Motion carried unanimously to approve the NOIA – Chapter 113 as amended.

APPROVED AS AMENDED

PUBLIC PARTICIPATION – CONT.

WAYNE FREDERICKS, farmer from Mitchell said that he has done a lot of research. A map was shown of soybean fields where manure was and was not applied and the yields from each. Data shows that soybeans will use the manure because the yields were greater on manure applied fields. We apply manure under 100 lbs per acre. The pH is in the upper 60's for this area. There were no deficiencies of any nutrients. This study is not a replicated study. No commercial fertilizer was used.

DON BUNCE, from Bremer County said that manure should be allowed to be applied to soybean ground. It improves the soybean production when manure is applied. I would appreciate the Commission to allow the continuance of manure application to soybean ground, this will affect the future farmers of Iowa.

Jerry Peckumn said that this rule will only affect operations with MMPs.

RAY GAESSER, President of the Iowa Soybean Association said that their organization is receiving an award from the Nature Conservancy. There are over 450 farmers and once they see the environmental implications of changing their practices, over 80% of the farmers will voluntarily make improvements. We ask that the EPC use the scientific data from Iowa State University and vote no on the ban. Use Iowa State's recommendations for a reduced rate of N on soybeans. Make a decision based on sound science.

BRENT JOHNSON, farmer and Agriculture Nutrient Consultant from Manson said that there needs to be a balance between economics and environment. I think we can accomplish this without having a restrictive rule in place.

Economic Reasons:

Nitrogen or Manure is more valuable to a corn crop than to soybeans. Most environmental farmers will apply manure or commercial fertilizer to land going to corn because there is more value for them to do that.

Environmental Reasons:

The best way to utilize manure is to inject it into the soil. There's less chance for run-off. If applied to corn, there is less chance for run-off. It becomes important when you get to more environmental areas, because they are NRCS compliance.

Soybeans actually use more nitrogen per crop than corn does. Which never gets mentioned because they have the capability of fixing their own nitrogen. However, when nitrogen is present, they won't produce excess.

Manure is a fertilizer that has nitrogen, phosphorus, potassium, organic matter, nutrients, etc. but there are a lot more benefits. Commercial fertilizer only has Nitrogen, Phosphorus and Potassium.

LARRY ALLIGER, a small CAFO operator said that we want to be able to apply manure to soybean fields to avoid a full pit. I urge the Commission to vote against the ban.

ADAM MASON, ICCI member passed out facts on the planned facility by Christensen Farms in Davis County.

Christiansen Farms, a Minnesota based factory farm cooperation, wants to construct four sow facilities in the neighborhood, each holding 4,500 head of sows. If built, the nearly 20,000 sows and their litters these facilities house will produce over 28,000,000 gallons of raw feces and urine a year. We are opposed to their plans to build even one of these sites in our community, let alone four. Here are some reasons why:

- ❖ These facilities were permitted 8 years ago under rules that have since changed, to increase the quality and safety of our water, our air and our lives.
- ❖ The plans approved eight years ago call for four manure lagoons, each the size of a football field. Studies show that manure lagoons leak and threaten our groundwater. Davis County has a high water table, and if built these sites will pose a serious threat to the groundwater.
- ❖ The original dirt work for these lagoons was done over 7 years ago. Without any vegetation planted or buildings constructed, these sites have already suffered the effects of erosion.
- ❖ Manure lagoons are rarely built these days because of the problems with them. Allowing a new one to be built just because it was permitted years ago is not a prudent course of action.
- ❖ The MMP for the first site lists 483 acres of land to be used for manure application in rotation, designating only about half of the acres to receive application per year. The anticipated amount of

manure is over 7,000,000 gallons for the first site alone, which will then be spread on as few as 225 acres in one year. This would result in up to 32,608 gallons of manure application per acre.

- ❖ According to the MMP at least 429 of these acres are highly erodible. 254 acres of the ground are at 12% slope, 140 acres are at 7% slope, and only 35 acres are at 4% slope. These increase the risks to water quality in the area.
- ❖ Applying such high amounts of liquid manure compounded with the steep slopes of the land it is being applied to will greatly increase the potential for pollution due to runoff and ground water contamination.
- ❖ Christiansen Farms will require more than 100,000 gallons of water a day to support this many animals.

We feel the concerns and dangers associated with these outdated methods of construction and production pose a grave threat to our water, our land and community. In addition, the construction of this site will lead to the need to house another 500,000 pigs per year in finishing units, which would want to locate in Davis County as well. This will increase the demand on our water supply as well as increasing the opportunities for water pollution and contamination. This is too big of a site with too many potential problems to allow construction to continue.

Section 455A of the Iowa Code charge the Iowa DNR with the primary responsibility of protecting the environment, and managing energy, fish, wildlife and land and water resources in this state. The mission of the department is to conserve and enhance our natural resources in cooperation with individuals and organizations to improve the quality of life in Iowa.

We ask you to review the potential harm this site poses to the local environment and present your findings to the DNR. The most current submitted Manure Management Plan has not yet been approved, the DNR has the ability to approve or deny this MMP. As this site was permitted before use of the Master Matrix, there has been no chance for local input or local appeals. Please use your power to look into the dangers surrounding the construction and operation of this facility, and work with the DNR to protect the water, land and people of Davis County.

LYNN ELM, farmer from Williams said that he strongly opposes the rule to ban manure on soybean crop. There is not enough scientific data to support this regulation. There are far too many variables. We need to continue to research this issue. Manure is a tremendous value to farmers. I realize that soybeans are legumes and they fix their own nitrogen, but there is a yield increase when manure is applied.

What are the reasons for this rule? Is this to keep nitrates from entering our water or to ban/get rid of the large livestock operations in Iowa.

This proposed regulation is not appropriate at this time, there are too many variables and unknowns about the nitrates entering our water from applying manure to soybeans.

SUSAN WEST, farmer from Fairbanks said that she supports the proposed Notice of Intended Action banning manure application to land going into soybeans.

Nitrogen is different from other nutrients because it leaches down into the soil. If it is not utilized, it is carried out of reach of the plants and into our water. Many labs do not even test soil samples for nitrogen,

since the nitrogen does not remain as a usable nutrient in the soil. Banning manure application for ground going into soybeans would prevent this leaching and potential water contamination.

There are, as has been pointed out, other beneficial nutrients in manure. But there is only anecdotal evidence of increased soybean yields as a result of manure application. In fact, some research suggests that it could even decrease yield. Regardless, what is best for one is not always what is best for the environment. Family farmers, many of whom are members of Iowa CCI, believe the practice of applying manure to soybeans is unnecessary and even foolish. Smart farming techniques, proven through generations on the land, preserve our natural resources and do not pollute the source of their success: the environment.

The Environmental Protection Commission and the Department of Natural Resources are bound by obligation to protect the environment. Iowa has some of the dirtiest water in the nation, and this is one feasible step towards changing that. When you vote today, please remember that your primary obligation is to the environment.

CHRIS PETERSEN, President of the Iowa Farmers Union supports the prohibition of manure going to soybeans. We need to find ways to lessen pollution and we commend you for thinking this way. In deciding, make sure that the science is a peer review.

ELDON MCAFEE, representing the Iowa Pork Producers Association and petitioners in petition for the manure on soybean rulemaking. They strongly oppose the ban of applying liquid manure on soybean land. (passed out a copy of two articles – one written by Francis Thicke and the other written by Dan Christiansen, Iowa Farmer Today)

Mr. Christiansen states in the article that he did receive a yield increase this year. When you look at the environmental concerns, if the manure is properly applied, there is no research showing that there is an environmental concern.

We are proposing in our petition to reduce the limit from 3.8 to 3.1 lbs of N per bushel per acre. There is research showing that the amount should be less than the 3.8 lbs.

The petitioners would be okay with the 2.5 lbs. of N per bushel per acre if that's what the Commission decides to do.

Lisa Davis Cook asked who funds the research done by Michael Russell?

Francis Thicke said USDA does.

Lisa Davis Cook stated her concern that funding can sometimes influence the results of the study.

Francis Thicke said that some of the data in the Christiansen article is erroneous.

Eldon McAfee said that he disagrees with that. He doesn't see any research that supports a ban of liquid manure to soybeans.

TOM VINCENT, corn, soybean and hog farmer from Perry said that local farmers got together to talk about farming issues. We need research and data supporting that a ban is the best option. We have found that applying manure to soybeans has resulted in a yield kick. Let's not make this a political issue. I think we need to listen Mr. Blackmer before we proceed with a rulemaking to ban manure application.

Jerry Peckumn said that this rule is not an attack on pig farmers but rather that it's a concern that farmers are applying very high N rates that end up in the tile line.

BOB STREIT, from a Crop Consulting Company said that the proposed rule ignores the fact of the use nitrogen. Manure is the most organic fertilizer, both corn and soybeans respond to that.

(recorder was unable to pick up his voice)

-----End of Public Participation-----

Dr. Tracy Blackmer, from the Iowa Soybean Association gave a Powerpoint Presentation on the application of manure to soybean ground.

Application of N manure does not appear to be a risk as long as the rate was not in excess of N in the crop.

ISU recommended a lower application rate for manure on soybeans than the current 3.8lbs limit.

I think three years is an adequate amount of time to gather research and collect data. ISU has identified a problem and is now working towards a solution. ISU is the best resource and I think you should use their experts. Let the experts do their research and then make a decision.

Yes, I do agree that the current amount of N applied is too high. Look at the water quality data.

Francis Thicke said that we need to be cautious on what data we may base our decision on. There is some arm twisting when it comes to organizations doing the research and their funding source.

Lisa Davis-Cook said that we will always have questions on what data is credible and what data isn't based on everyone's opinion.

Tracy Blackmer said that I don't see a ban as being the best option.

For a copy of his presentation, please e-mail Dr. Blackmer at tblackmer@iasoybeans.com

NOTICE OF INTENDED ACTION - CHAPTER 65-SUBRULES PROHIBITING LIQUID MANURE/SETTLED OPEN FEEDLOT EFFLUENT APPLICATION TO SOYBEANS

Wayne Gieselman, Administrator of the Environmental Services Division presented the following item.

At the Commission's September meeting, the Commission requested that the Department prepare a Notice of Intended Action (NOIA) that would include the language reviewed as an Information item at the September meeting with the following changes: extend the prohibition to open feedlots and modify the exceptions relating to the need to plant soybeans if longer season crops cannot be planted. Accordingly, the NOIA includes: a proposed subrule for Division II of Chapter 65 pertaining to nutrient management plans for open feedlots; a modification of the exception language to provide that the prohibition does not apply on or after June 1 of each year if excessive rainfall or other adverse field conditions has prevented the planting of crops that require a longer growing season than soybeans..

ENVIRONMENTAL PROTECTION COMMISSION [567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 459.103 and 2005 Iowa Code Supplement section 459A.104, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 65, "Animal Feeding Operations," Iowa Administrative Code.

For confinement feeding operations or open feedlot operations that are required to submit manure/nutrient management plans, the proposed amendments would prohibit the application of liquid manure or settled open feedlot effluent to land that is planted to soybeans or that will be planted to soybeans the next crop season. The prohibition would not apply to operations with existing manure management plans until three years after the effective date of the proposed amendments. Further, the prohibition would not apply on or after June 1 of each year if excessive rainfall or other adverse field conditions prevent the planting of crops that require a longer growing season than soybeans.

Any interested person may make written suggestions or comments on the proposed amendments on or before _____. Written comments should be directed to Gene Tinker, Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th St., Des Moines, Iowa 50319-0034; fax (515)281-8895; email gene.tinker@dnr.state.ia.us.

Also, there will be public hearings as follows, at which time persons may present their views either orally or in writing.

At the hearings people will be asked to give their names and addresses for the record and to confine their remarks to the subject of the proposed amendments.

Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise _____ of _____ specific _____ needs.

These amendments are intended to implement Iowa Code sections 459.103 and 459.312, and 2005 Iowa Code Supplement sections 459A.104 and 459A.208.

The following amendments are proposed.

ITEM 1. Amend rule 65.17(459) by adopting the following new subrule:

65.17(20) Liquid manure on land planted to soybeans. Effective [effective date of amendment], the owner of a confinement feeding operation who is required to submit a manure management plan shall not apply liquid manure to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. However, this prohibition is limited as follows:

- a. An owner who files an original or updated manure management plan prior to [effective date of this amendment] that provides for the application of liquid manure on land that will be planted to soybeans is not subject to this prohibition until [three years after effective date of this amendment].
- b. This subrule does not apply on or after June 1 of each year if excessive rainfall or other adverse field conditions has prevented the planting of crops that require a longer growing season than soybeans.

ITEM 2. Amend rule 567--65.112(459A) by adopting the following new subrule:

65.112(11) Settled open feedlot effluent on land planted to soybeans. Effective [effective date of amendment], the owner of a open feedlot operation who is required to submit a nutrient management plan shall not apply settled open feedlot effluent to land that is currently planted to soybeans or to land where the current crop has been harvested that will be planted to soybeans the next crop season. However, this prohibition is limited as follows:

- a. An owner who files a nutrient management plan prior to [effective date of this amendment] that provides for the application of settled open feedlot effluent on land that will be planted to soybeans is not subject to this prohibition until [three years after effective date of this amendment].
- b. This subrule does not apply on or after June 1 of each year if excessive rainfall or other adverse field conditions has prevented the planting of crops that require a longer growing season than soybeans.

Mary Gail Scott said that she does not see this as being specific to soybeans only but rather that applying nitrogen to any crop there's a concern of leaching.

Darrell Hanson asked which environmental consequence are we willing to live with? I would be much more willing to go with a lower limit of N on soybeans than a total ban.

Henry Marquard said that there isn't enough science to justify a ban. I would also like to see a lower limit for now. I think we need to act based on the science and there isn't sufficient science to act in a very drastic manner.

Donna Buell suggested an interim amount of 100 lbs. (based on ISU recommendations) for five years and then followed by a ban. Then we need to prompt ISU and everybody interested in doing the research to come back and tell us that the amount is wrong or right. No farmer will spend the money on nitrogen to spread it on soybeans, manure applied to soybeans now is just being used as a waste product.

David Petty said that people are trying to do the right thing. We need to recognize what ISU is doing, with more monetary support they should be able to complete a study more quickly. If you lower the rate to 2.5lbs. which is 40 bushels that's 100 pounds. 2.5 times 50 bushels is 125 lbs. 3.8lbs to 2.5 lbs is over a

third of the reduction. We are a lot better off than we were yesterday. We don't know what the perfect number is, but it's better to come up with a reasonable adjustment that leaves room for changes then shutting the door at the end and trying to make changes when we get there.

Francis Thicke said that he is not interested in a ban of manure to alfalfa. Based on a study from Randalls of southern MN, the results showed the nitrate loss from corn, soybean, alfalfa, and CRP. He has been doing research for thirty years.

Losses over six years

Corn – 194 lbs. per acre over 4 years

Soybeans – 182 lbs per acre over 4 years

Alfalfa – 6 lbs per acre over 4 years

CRP - 4 lbs per acre over 4 years

(this is without applying manure)

If you plant cover crops between corn and soybeans, that cover crop will suck up the nitrates.

Darrell Hanson said that if people with MMPs switch to more corn, someone else will plant soybeans because of the demand. My concern is that this won't reduce the amount of manure applied to the ground, so the advantage is relatively slim.

Donna Buell said that it would reduce the amount of anhydrous that is put on.

Motion was made by David Petty to amend the following rules: 65.17(18)(c)(459) Nitrogen – based application rates shall be based on the optimum yields as determined in 65.17(6) and crop nitrogen usage rate factor values in Table 4 at the end of this chapter or other credible sources. However, if liquid manure is applied to growing soybean crop or applied after the current crop has been harvested for a soybean crop planned for the next crop season, the liquid manure applied pursuant to nitrogen-based application rates shall be applied to provide no more than 125 pounds of nitrogen available to the soybean crop. 65.112(8)(a)(459A) A nutrient management plan shall include all of the following: a. Restrictions on the application of open feedlot effluent based on all of the following: (2) Calculations necessary to determine the land area required for the application of manure, process wastewater and open feedlot effluent from an open feedlot operation based on nitrogen or phosphorus use levels (as determined by phosphorus index) in order to obtain optimum crop yields according to a crop schedule specified in the nutrient management plan, and according to requirements specified in 65.17(4) and 65.17(6). The requirements specified in 65.17(18) for liquid manure applied to a growing or planned soybean crop, and adopted by reference in this sub-rule and 65.17(4), shall apply only to liquid manure, process wastewater or settled open feedlot effluent. Seconded by Darrell Hanson.

Donna Buell suggested an amendment to change the 125 lbs. limit to a 100 lbs. limit with a ban following after five years, unless research shows otherwise.

David Petty said that he would like to see the 125 lbs limit stay but to have researchers come back after three years to give us some more current data so a number can be chosen based off of a study.

Motion was made by Lisa Davis Cook to amend Commissioner Petty's motion to include a ban after five years, unless scientific data shows otherwise. Seconded by Francis Thicke. Roll call vote was taken on this

amendment: Henry Marquard – aye; Lisa Davis Cook – aye; Sue Morrow – aye; Darrell Hanson – nay; David Petty – nay; Donna Buell – aye; Mary Gail Scott – aye; Francis Thicke – aye; Jerry Peckumn – aye. Motion for the amendment carried.

Motion was made by Francis Thicke to change 125 lbs. of N per acre to 100 lbs. of N per acre. Seconded by Darrell Hanson. Roll call vote was taken on this amendment: Mary Gail Scott – nay; Darrell Hanson – aye; Donna Buell – aye; Francis Thicke – aye; Henry Marquard – nay; David Petty – nay; Sue Morrow – aye; Jerry Peckumn – aye. Motion for the amendment carried.

Jerry Peckumn said that we would like the Department to draft some recommended language with changes made today.

Roll call vote was taken on the original motion made by Commissioner Petty as amended (twice): Henry Marquard – aye; Darrell Hanson – aye; Donna Buell – aye; Francis Thicke – aye; Mary Gail Scott – aye; David Petty – nay; Sue Morrow – aye; Lisa Davis Cook – aye; Jerry Peckumn – aye. Motion carried with amendments.

APPROVED AS AMENDED

REFERRALS TO THE ATTORNEY GENERAL

Edmund J. Tormey, Chief of the Legal Services Bureau presented the following item.

The Director requests the referral of the following to the Attorney General for appropriate legal action. Litigation reports have been provided to the commissioners and are confidential pursuant to Iowa Code section 22.7(4). The parties have been informed of this action and may appear to discuss this matter. If the Commission needs to discuss strategy with counsel on any matter where the disclosure of matters discussed would be likely to prejudice or disadvantage its position in litigation, the Commission may go into closed session pursuant to Iowa Code section 21.5(1)(c).

CARGILL, INCORPORATED / MORT'S, INC. (IOWA FALLS) – WASTEWATER / SOLID WASTE

Jon Tack, Attorney with the Department of Natural Resources presented this case.

In June of 2006, The Iowa Falls Municipal Wastewater Facility began refusing Cargill, Inc. biodiesel plants' wastewater due to high biological oxygen demand. Cargill started collecting its liquid waste in a 8,000 gallon holding tank. Cargill filled the holding tank to capacity and hired Mort's Inc. of Lanier to decant the bottom of the tank for land application.

Mort's land applied 56,000 gallons on the Kline site and 79,000 gallons on the D&T Recycling site. The waste was not incorporated.

In July 2006, waste flowed directly into a tile line surface intake and entered School Creek thereby causing water quality violations and a fish kill. The waste was acutely toxic and cause the death of trees, grass and fish. The waste is likely to have caused the death of other aquatic organisms.

Jon Tack said that Cargill Inc. is sorry about the incident but are very willing to work with the Department and the Attorney General's Office to resolve the issues.

Motion was made by Darrell Hanson to refer Cargill Inc. to the Attorney General's office. Seconded by Donna Buell. Motion carried unanimously.

REFERRED

BERNARD COHRS AND COHRS CONSTRUCTION, INC. (DICKINSON COUNTY) - SOLID WASTE / AIR QUALITY

Kelli Book, Attorney for the Department of Natural Resources presented the following information.

We are asking for referral of Mr. Cohrs and Construction for open burning and solid waste disposal violations. The open burning and improper waste disposal also violated a previous Administrative Order. The violations were taking place at the Cohrs Construction gravel operation owned by Mr. Bernard Cohrs. It was determined that Cohrs Construction had been accepting payment from cities to dispose of year waste since 2000. The first order required Cohrs Construction to: 1) stop any and all open burning at the gravel site, as well as other sites in Iowa 2) stop any and all improper solid waste disposal at the gravel site, as well as any other site in Iowa. 3) dispose of all solid waste and landscape waste in a manner consistent with the regulations in the future and to 4) pay a penalty of 7,000.

Abby Walleck, Attorney from Spirit Lake representing Cohrs Construction said that her client has been operating this business for 30 years in Dickinson County. Their operation consists of excavation, trenching, erosion control, landscaping, demolition and farming.

In 2000, my client was notified of open burning. They have handled this operation by landfill dumping or burning with a permit.

In 2003, another burning violation arose. Mr. Cohrs intended to incorporate the leaves into the fields, but when the county started bringing in bags he decided to start burning them. He did take full responsibility for that. Mr. Cohrs was not burning at the gravel pit location. My client thought he was exempt from the first order because the burning took places on agricultural land and not on commercial land.

My clients are not habitual violators. They have worked very cooperatively and closely with the DNR over the years. They are environmentally friendly and aware. My clients understand that this is their last chance to get the rules right, they would like to work this out with them before referral.

Darrell Hanson asked if the DNR told Mr. Cohrs that it was okay to burn on agricultural land.

Abby Walleck said no, they just misinterpreted what they meant.

Kelli Book said that the land is not considered agricultural property according to the County assessor's office. It's registered as commercial land.

Abby Walleck said that my clients have rented a dumpster to handle future waste that produced on site. The first violation in 2000 was for tearing a building down and moving it off site to burn it. The violation in 2003 was for burning leaves and rags.

Kelli Book said that the 2003 order stated to stop any and all burning on this site and any other site in the state of Iowa and to stop all disposal of illegal waste on all sites in Iowa.

Abby Walleck said that my clients believed they were exempt because they were burning on agricultural land. There are allowable exceptions to that.

Kelli Book said that nothing burnt at the agricultural site pertained to agriculture. There was appliances, garbage, commercial waste, beverage containers, etc.

Motion was made by Henry Marquard to refer Cohrs Construction to the Attorney General. Seconded by Francis Thicke. Motion carried unanimously.

REFERRED

WINTER MOBILE HOME PARK (CHAD AND LONA SWEITZER) (NEW HAMPTON) – WATER SUPPLY

Diana Hansen, Attorney for the Department of Natural Resources presented the following information.

The Department is requesting referral of Chad and Lona Sweitzer, owners of the Winter Mobile Home Park, due to water supply violations. These violations included water supply monitoring and reporting violations, failure to renew the operation permit and operation without a permit, failure to retain a certified operator, failure to submit a consumer confidence report, failure to submit monthly operation reports, public notice violations and failure to pay the annual fee and late fee.

Motion was made by Darrell Hanson to refer Winter Mobile Home Park to the Attorney General. Seconded by Francis Thicke. Motion carried unanimously.

REFERRED

PROPOSED CONTESTED CASE DECISION - GOETTSCH TRUCKING AND SEED, INC. & THOMAS GOETTSCH

Edmund J. Tormey, Chief of the Legal Services Bureau presented the following item.

The Department issued Administrative Order No. 2005-HC-01 to Goettsch Trucking and Seed, Inc. and Thomas Goettsch (Goettsch) dated April 15, 2005. Goettsch filed a timely appeal. The order assessed a penalty of \$5,500. The penalty assessment was based on a claim that Goettsch had failed to report an aboveground spill of diesel fuel from aboveground storage tanks at the Goettsch facility in Galva, Iowa and take appropriate corrective action. The assessment added \$1,000 as an aggravating factor based on a claim that Mr. Goettsch had not fairly represented the nature and extent of the spill when first contacted by the Department staff. The order also required Goettsch to undertake soil excavation and conduct a soil and groundwater investigation. Goettsch did conduct a limited site assessment in response to the order but failed to comply with the order's requirement to obtain prior approval of a work plan by the Department. The assessment did not identify contaminants in soil and groundwater and the Department decided not to require further assessment or corrective action.

A contested case hearing was held and Administrative Law Judge, Margaret LaMarche, issued a proposed decision dated October 13, 2006. As the result of evidence that was produced at hearing, the Department agreed to reduce the penalty to \$4,500. Judge LaMarche found that the spill constituted a reportable "hazardous condition" and that Goettsch had failed to timely report it. Judge LaMarche also found in favor of the Department's position that the spill was of a sufficient amount to cause runoff into a city street and enter a storm sewer that discharged into a ditch. This discharge constituted an illegal discharge into water of the state.

Judge LaMarche reduced the Department's \$4,500 penalty to \$2,000. Judge LaMarche found that the actions of Goettsch in responding to the spill, although insufficient, justified a reduction of the gravity and culpability factors from \$1,500 to \$500 and \$1,000 to \$500 respectively. The judge reversed the Department's assessment of \$1,000 as an aggravating factor finding that Mr. Goettsch did not intend to mislead the Department about the quantity and extent of the release.

Goettsch has offered to pay the \$2,000 penalty as assessed and does not intend to appeal the proposed decision. Although the Department has concerns with the judge's penalty assessment, the proposed decision does validate the violations as cited and assessed a penalty for each. The Department recommends the Commission accept the proposed decision.

NO ACTION TAKEN

NOTICE OF INTENDED ACTION: CHAPTERS 21, 22, 23, 25 AND 34, AIR QUALITY PROGRAM RULES - UPDATES, REVISIONS, AND ADDITIONS

Christine Paulson, Environmental Specialist Senior of the Air Quality Bureau presented the following item.

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 21 "Compliance," Chapter 22 "Controlling

Pollution," Chapter 23 "Emission Standards for Contaminants," Chapter 25 "Measurement of Emissions," and Chapter 34 "Emissions Trading Programs," of the 567 Iowa Administrative Code.

The primary purpose of the proposed rule changes is to adopt into the state air quality rules several recently finalized federal regulations. Additionally, these changes include adoption of minor federal amendments to the Clean Air Mercury Rule (CAMR). The rule changes also include clarifications and corrections to the state air quality rules for variances and for the Title V operating permit program.

This Notice of Intended Action was presented to the Commission in September as an information item. The few changes and additions from what was presented for information are noted with asterisks below.

This rulemaking proposes the following updates, revisions, and additions:

- Item 1 clarifies the eligibility requirements for variances. Under federal regulations, the Department may not issue a variance for conditions or standards specified under such federal regulations as Prevention of Significant Deterioration (PSD), New Source Performance Standards (NSPS), or National Emission Standards for Hazardous Air Pollutants (NESHAP). The Department may grant a variance which does not alter the facility's obligation to comply with elements of these federal regulations. The amendment is the Department's effort to clarify the variance eligibility requirements.
- Items 2 and 3 update the references to federal regulations that designate Iowa's attainment status with the National Ambient Air Quality Standards (NAAQS). The federal regulations were last updated in January 2005. At that time, EPA did not designate any nonattainment areas within Iowa.
- Item 4 updates a reference to federal regulations for hazardous air pollutants that were adopted by reference in Chapter 23 in a previous rulemaking.*
- Items 5, 6 7 and 8 correct cross references in the Title V, Acid Rain and other operating permit program rules for amendments that were adopted in a previous rulemaking.
- Item 9 amends Chapter 23 to adopt recent federal amendments to the NSPS provisions. In particular, EPA revised the definition of electric generating unit (EGU). The amendment codified what the Department had already presumed to be the definition of EGU for the purposes of the Clean Air Mercury Rule (CAMR). There were additional clarifications to the NSPS regulations for testing methods and for the requirements for other source categories, which are described in more detail in the Notice preamble.
- Item 10 amends the standards for electric utility steam generating units to adopt recent federal changes to the applicability requirements for CAMR. EPA made clarifications to the definition of "coal-fired electric utility steam generating unit" and clarified the emission standard for mercury. The federal amendments reflect the Department's previous understanding of these provisions, and do not alter CAMR's applicability to Iowa's facilities.
- Items 11 and 13 reserve two paragraphs in Chapter 23 in the NSPS rules to coincide with similarly reserved paragraphs in the federal NSPS regulations.

- Item 12 amends Chapter 23 to adopt a new NSPS. EPA issued final standards for diesel engines that are stationary compression ignition internal combustion engines for which construction modification or reconstruction commenced after July 11, 2005. Although these standards are modeled after the EPA standards for mobile source diesel engines, these standards do not apply to motor vehicles. These standards are described in more detail in the Notice preamble. At this time, the Department is not aware of any facilities subject to these new standards.
- Item 14 amends Chapter 23 to adopt another new NSPS. EPA finalized standards for certain stationary combustion turbines that commenced construction, modification or reconstruction after February 19, 2005. These standards are described in more detail in the Notice preamble. At this time, the Department is aware of one facility that may be subject to these new standards.
- Item 15 amends Chapter 23 to adopt recent federal changes to the national emission standards for hazardous air pollutants for source categories (commonly known as NESHAPs). The substantive changes are described in detail in the Notice preamble and include the following:
 - EPA took final action on several NESHAPs to address residual risk. Under the Clean Air Act, EPA is required to revisit the NESHAPs for source categories to ensure that the prescribed emission controls are protecting the public health with an ample margin of safety. If this is not the case, EPA may establish additional control or emissions reduction requirements. EPA found that no additional control was necessary, and made only minor changes to the NESHAPs for these source categories: hydrochloric acid production, magnetic tape manufacturing, ethylene oxide sterilizers, industrial process cooling towers, and gasoline distribution facilities.
 - EPA amended the NESHAP general conditions to revise certain aspects of the start-up, shutdown and malfunction (SSM) requirements.
 - EPA amended three NESHAPs related to printing, publishing, paper coating, and textile coating to resolve inconsistencies, add additional compliance flexibility, and clarify the interaction between the three sets of standards.
 - EPA amended the NESHAP for organic liquids distribution to provide additional compliance options.
 - EPA amended the NESHAP for miscellaneous organic chemical manufacturing (MON) to clarify applicability, provide additional compliance options, modify initial and continuous compliance requirements, and simplify the recordkeeping and reporting requirements.
 - EPA amended the NESHAP for integrated iron and steel manufacturing to add a new compliance option, revise emission limitations, reduce the frequency of repeat performance tests for certain emission units, add corrective action requirements, and clarify monitoring, recordkeeping and reporting requirements.
 - EPA amended the NESHAP for miscellaneous coating manufacturing to narrow the activities covered under the regulations and to minimize the compliance burden to affected facilities.*
- Item 16 adopts federal changes to the NESHAP for dry cleaning facilities that use perchloroethylene (also known as perc). EPA assessed the residual risk for this source category, and determined that additional controls were necessary to protect the public health with an ample margin of safety. As such, dry cleaners will be subject to a number of new requirements. These are

summarized in more detail in the Notice preamble. In particular, dry cleaners that are located in residential buildings, such as apartment complexes, will be required to eliminate or phase out all use of perc in several stages, beginning immediately for new facilities, and by 2020 for existing facilities. At this time, the Department is not aware of any dry cleaners in the state that are located in residential structures. The Department will work closely with our small business assistance partners to assist dry cleaners in complying with the requirements by the prescribed deadlines.

- Item 17 amends the NESHAP for hazardous waste combustors. The Department is not aware of any facility in the state subject to these standards.
- Item 18 amends the emission guidelines in Chapter 23 to adopt the most recent federal amendments. This includes adopting the minor clarifications to CAMR that do not alter CAMR's applicability to Iowa's facilities.
- Items 19 and 20 amend the emission guidelines to correct cross reference to Title V program rules for amendments that were adopted in a previous rulemaking.
- Items 21 and 22 amend Chapter 25 to update references to federal NSPS regulations that are being adopted by reference as indicated in Item 9.*
- Items 23, 24 and 25 amend Chapter 34 to adopt by reference EPA's most recent changes to CAMR. These changes codified what had already been the Department's understanding of CAMR's impacts. These changes do not affect Iowa's mercury budget or the mercury allowance allocations specified in the current rules.

**Notes an addition to what was presented to the Commission for information in September.*

If the Commission approves this Notice of Intended Action, a public hearing will be held on January 8, 2007, at 1 p.m. at the Department's Air Quality Bureau offices. The public comment period for the proposed rules will close on January 9, 2007.

Motion was made by Darrell Hanson to approve the NOIA – Ch. 21, 22, 23, 25, and 34 as presented. Seconded by Donna Buell. Motion carried unanimously.

APPROVED AS PRESENTED

NOTICE OF INTENDED ACTION, CHAPTER 61, WATER QUALITY STANDARDS, SECTION 401 CERTIFICATION OF SECTION 404 NATIONWIDE PERMITS (NWPs)

Wayne Gieselmann, Division Administrator of Environmental Services presented the following item.

The Commission is asked to approve the attached Notice of Intended Action to amend Chapter 61: Water Quality Standards, Section 401 Certification of Section 404 Nationwide Permits (NWPs) of the Iowa Administrative Code (IAC).

The U.S. Army Corps of Engineers (Corps) recently issued, in the September 26, 2006 Federal Register, a notice of intent to reissue the existing Nationwide Permits (NWP), General Conditions and definitions with some modifications. The commission will be provided with a Notice of Intended Action that will initiate rule making to grant Section 401 water quality certification for 43 existing Corps NWPs, six new NWPs, one new general condition, three existing Iowa regional conditions, four new Iowa regional conditions, one existing Iowa Regional Permit, and two new Iowa Regional Permits. Section 401 water quality certification is a state water quality agency's certification that a proposed activity will not violate state water quality standards.

A copy of the Federal Register with the proposed NWPs can be obtained from the Department of Natural Resources. This amendment would provide Section 401 certification for the modified and new NWPs.

The NWPs, general conditions, and definitions have been revised so that they are clearer, more concise, and can be more easily understood by the regulated public, government personnel, and interested parties, while retaining terms and conditions that protect the aquatic environment.

The following are the six new nationwide permits:

- A. Emergency Repair Activities
- B. Discharges into Ditches and Canals
- C. Pipeline Safety Program Designated Time Sensitive Inspections and Repairs
- D. Commercial Shellfish Aquaculture Activities
- E. Coal Remining Activities
- F. Underground Coal Mining Activities

The Rock Island District is also proposing two new Regional Permits 33 and 34 (RP 33 and RP 34). Regional Permit 33, Small NRCS Structures in the State of Iowa, authorizes the placement of fill materials in waters of the U.S. in Iowa for the construction of small ponds, dams and grade stabilization structures whether planned by and/or funded by the NRCS, or in cooperation with other local, state, or federal agencies where NRCS is the lead Federal agency. Regional Permit 34, Conservation Reserve Enhancement Program Structures in the State of Iowa, authorized the placement of fill materials in waters of the U.S. to create wetlands and ponded water through the construction of earthen embankments and/or dams when funding or technical assistance is being provided through CREP and when FSA is the lead agency.

Motion was made by Henry Marquard to approve the NOIA for Chapter 61 as presented. Seconded by Francis Thicke. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED RULE – CH. 103.3, 104.26, 112.31, 114.31, 115.31, 118.16, 120.13, 121.8, 122.28, 122.29 AND 123.12 & TO AMEND RULES 105.14, 106.18 - FINANCIAL ASSURANCE REQUIREMENTS

Tammie Krausman of the Environmental Services Division presented the following item.

We are asking the Commission to review the draft Notice of Intended Action to adopt new rules 103.3, 104.26, 112.31, 114.31, 115.31, 118.16, 120.13, 121.8, 122.28, 122.29 and 123.12 and to amend rules 105.14 and 106.18. These new and amended rules are intended to fully implement the financial assurance requirements for all sanitary landfills as required by Iowa Code sections 455B.304(8) and 455B.306(8).

In 1986, the Code of Iowa was amended to require financial assurance requirements for all sanitary disposal projects. Financial assurance requirements for municipal solid waste landfills were adopted by the commission in 1994 (Chapter 111). Since 2002, financial assurance requirements have been adopted for composting facilities (Chapter 105) and transfer stations (Chapter 106). This rulemaking is intended to implement the statutorily required financial assurance requirements for the remaining categories of sanitary disposal projects. The proposed rules are based upon the existing rules for municipal solid waste landfills, composting facilities, and transfer stations.

The proposed rules apply to coal combustion residue landfills, solid waste processing facilities, solid waste composting facilities, solid waste transfer stations, biosolids monofill sanitary landfills, construction and demolition waste landfills, appliance demanufacturing facilities, persons engaged in the permitted land application of solid wastes and petroleum contaminated soils, cathode ray tube collection facilities, and household hazardous waste regional collection centers. Exceptions to the new financial assurance requirements are proposed for facilities to which the current financial assurance requirements are applicable. Financial assurance mechanisms should already be in place for such facilities.

The Commission will be asked to approve this Notice of Intended Action at its December meeting.

INFORMATION ONLY

PROPOSED RULE - CHAPTER 81 – OPERATOR CERTIFICATION: PUBLIC WATER SUPPLY SYSTEMS AND WASTEWATER TREATMENT SYSTEMS

Tammie Krausman of the Environmental Services Division presented the following item.

The Commission will be asked in December to approve the attached Notice of Intended Action to amend Chapter 81 “Operator Certification: Public Water Supply Systems And Wastewater Treatment Systems” of the Iowa Administrative Code (IAC). The purpose of the amendment to subrule 81.7(3) is to allow more operators the opportunity to qualify for the highest grade exam (Grade 4) through experience substitution. This will provide for additional qualified Iowa Operators which are needed for succession as current operators retire.

INFORMATION ONLY

PROPOSED RULE - CHAPTER 64 – SEWER EXTENSION CONSTRUCTION PERMIT PROVISIONS

Wayne Gieselman, Division Administrator of Environmental Services presented the following item.

The notice of intended action is for changes to Chapter 64 “Wastewater Construction and Operation Permits” is being presented to the Environmental Protection Commission for information. The purpose of the amendment to subrule 64.2(10) is to revise and clarify the criteria for sewer extension construction permit approval and denial provisions. Sewer extension permits are issued by the DNR to allow communities and developers to construct new sanitary sewer collection and conveyance systems and transport the additional domestic, commercial, and/or industrial wastes to the wastewater treatment facilities for treatment and disposal. The amendment will modify section 64.2(10) to include new approval and denial language, modernize, and simplify the rule.

The concerns for the existing rule include the following:

1. The current rule criteria allows for significant effluent degradation from treatment facilities and potentially serious water quality impacts to the receiving waters resulting from overloaded or inadequate wastewater treatment before consideration can be given to denying construction permits that would exacerbate the impacts by allowing additional loads to increase the source of the problem.
2. The application of the current rule is complicated by provisions that allow for varying ranges of noncompliance for facility categories that are difficult to determine or are outmoded. These include references to conditions that have outlived their usefulness or reasonableness such as facilities permitted with or without EPA construction grants before or after 1973. Essentially all facilities that have treatment needs have had opportunity for financial assistance of some type since 1972.
3. The current rule does not address the entire scope of water quality based effluent limits for compliance assessment.
4. The current rule contains distinctions between private and public wastewater treatment and disposal systems.

Proposed revisions use a criterion of “substantial compliance” for construction permit denial. Substantial compliance gives a reasonable allowance for exceedances and is a term consistent with other compliance activities. Substantial noncompliance is expected to trigger corrective action. Proposed revisions include considerations for circumstances of various types of bypassing and whether or not the system is in the planning process or on a schedule for improvements. The concept is to provide an easily interpreted, reasonable rule that does not allow unlimited additions of wastewater loadings without the expectation or incentive to provide adequate treatment of wastewater from the service area. The draft also removes the distinction between public and private facilities and the financing source for their construction.

INFORMATION ONLY

PROPOSED RULE - CHAPTERS 67, STANDARDS FOR THE LAND APPLICATION OF SEWAGE SLUDGE – UPDATES AND REVISIONS

Tammie Krausman of the Environmental Services Division presented the following item.

The Commission will be asked in December to approve amendments to Chapter 67 “Standards for the Land Application of Sewage Sludge” of the 567 Iowa Administrative Code.

The primary purpose of this rule change is to adopt into the state rules changes to the federal regulations that were amended as a result of EPA’s reconsiderations of certain issues remanded by the U.S. Court of Appeals for additional justification or modification. The amendment is deleting the current land application pollutant limits for chromium and changing the land application pollutant concentration limit for selenium and molybdenum. This rule amendment also addresses a change to an adoption by reference date and an updated address.

INFORMATION ONLY

2007 EPC MEETING SCHEDULE

Tammie Krausman of the Environmental Services Division presented the following item.

Below is a schedule of Environmental Protection Commission meetings and proposed locations for 2007.

- January 2, 2007 in Des Moines – Alternative date: Tuesday, January 16th, 2007
- February 6, 2007 in Dubuque
- March 6, 2007 in Des Moines
- April 3, 2007 in Ames
- May 1, 2007 in Des Moines
- June 5, 2007 in Muscatine
- July 3, 2007 in Des Moines – Possible alternative date due to the 4th of July holiday
- August 7, 2007 in the Loess Hills Area
- September 4, 2007 in Des Moines
- October 2, 2007 in Storm Lake
- November 6, 2007 in Des Moines
- December 4, 2007 in Des Moines

The Commission is asked to review the meeting dates for 2007. Discussion will take place at the December meeting.

INFORMATION ONLY

MONTHLY REPORTS

Wayne Gieselmann, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports are enclosed with the agenda for the Commission's information.

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

Rulemaking Status Report

Proposal	Notice to Commission	Notice Published	ARC	Rules Review Committee	Hearing	Comment Period	Final Summary to Commission	Rules Adopted	Rules Published	ARC	Rules Review Committee	Rule effective
1. Ch. 11 – Tax Certification of Pollution Control or Recycling Property	9/19/06	10/11/06	5450B	*11/20/06	11/08/06	11/08/06	*12/05/06	*12/05/06	*1/03/07		*2/06/07	*2/07/07
2. Ch. 20, 22, 31 and 33 – Air Quality Program Rules; PSD Rules	5/15/06	6/07/06	5154B	7/11/06	7/10/06	7/12/06	8/21/06	8/21/06	9/27/06	5388B	10/10/06	10/18/06
3. Ch. 21, 22, 23, 25 and 34 – Incorporate Federal Regulations	11/14/06	*12/06/06		*1/02/07	*1/08/07	*1/09/07	*2/06/07	*2/06/07	*3/14/07		*4/03/07	*4/18/07
4. Ch. 43 – Water Supplies – Design and Operation – Construction Permit Fees	9/19/06	10/11/06	5449B	*11/20/06	11/01/06	11/03/06	*12/05/06	*12/05/06	*1/03/07		*2/06/07	*2/07/06
5. Ch. 47 – Private Well Sampling, Rehabilitation and Closure							9/19/06	9/19/06	10/11/06	5460B	*11/20/07	*11/15/07
6. Ch 60, 62 and 63 – Effluent Pretreatment Standards							9/19/06	9/19/06	10/11/06	5459B	*11/20/07	*11/15/07
7. Ch. 61 – WQS Section 401	11/14/06	*12/06/06		*1/02/07			*2/06/07	*2/06/07	*3/14/07		*4/03/07	*4/18/07

Certification of Section 404 NWPs												
8. Ch. 65 – Prohibit Liquid Manure Application to Soybeans	11/14/06	*12/20/06		*1/02/07			*3/06/07	*3/06/07	*3/28/07		*5/07/07	*5/18/07
8. Ch. 68 – Commercial Septic Tank Cleaners; Ch. 69 – Onsite Wastewater Treatment and Disposal Systems	3/20/06	4/12/06	5042B	5/09/06	5/3-4, 9, 10-11, 16/06	5/17/06	8/21/06	8/21/06	9/27/06	5389B	10/10/06	10/18/06
9. Ch. 113 – Sanitary Landfills for Municipal SW: Groundwater Protection Systems for the Disposal of Non-Hazardous Wastes	11/14/06	*12/06/06		*1/02/07	1/22,24 and 26/07	*1/26/07	*2/06/07	*2/06/07	*3/14/07		*4/03/07	*4/18/07
10. Ch. 118 – Discarded Appliance Demanufacturing	8/21/06	9/27/06	5387B	10/10/06	10/04/06	10/04/06	*12/05/06	*12/05/06	*1/03/07		*2/06/07	*2/07/07
11. Ch. 215 – Mercury Switch Removal	8/21/06	9/27/06	5386B	10/10/06	10/04/06	10/04/06	11/14/06	*11/14/06	*12/06/06		*1/02/07	*1/10/07

**Iowa Department of Natural Resources
Environmental Services
Report of WW By-passes**

During the period September 1, 2006 through September 30, 2006, 9 reports of wastewater by-passes were received. A general summary and count by field office is presented below. This does not include by-passes resulting from precipitation events.

Month	Total	Avg. Length (days)	Avg. Volume (MGD)	Sampling Required	Fish Kill
October '05	11(9)	0.672	0.691	3	0(0)
November '05	7(11)	0.167	0.045	2	0(0)
December '05	7(7)	0.028	0.010	2	0(0)
January '06	10(6)	0.441	0.002	2	0(0)
February '06	6(9)	0.238	0.006	2	0(0)
March '06	12(9)	0.155	0.026	1	0(0)
April '06	12(14)	0.073	0.134	2	0(0)
May '06	11(18)	0.135	0.004	3	0(0)
June '06	9(7)	0.342	0.076	5	0(0)
July '06	9(5)	0.078	0.003	2	0(0)
August '06	15(13)	0.196	0.023	8	0(0)
September '06	9(3)	0.285	0.024	0	0(0)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field Office This Period:

1 2 3 4 5 6

0 0 1 1 5 2

Contested Case Status Report

4/26/99	Gerald and Judith Vens	6	Order/Penalty	FP	Clark	9/20/04 – DNR staff gathering information to submit to DNR management.
12/01/99 12/08/99	Iowa Select Farms, L.P./AG Waste Consultants, Inc.	2	Order/Penalty	AFO	Clark	4/20/04 – ISF and Dept. attorneys unsuccessful attempt to contact AG Wastes Consultants attorney.
7/13/00	Dan Witt	6	Order/Penalty	AFO	Clark	4/26/04 – Settlement invitation letter sent.
10/02/01	Daryl Larson	6	Order	AFO	Clark	Negotiating before filing.
11/27/01	Dallas County Care Facility	5	Order/Penalty	WW	Hansen	10/03 – Letter to County attorney regarding appeal resolution. 1/04 – Letter to attorney regarding appeal. 4/04 – Dept. letter to attorney regarding appeal. 9/04 – Dept. letter to attorney regarding appeal.
1/23/02	Clearview Mobile Home Park	6	Permit Conditions	WW	Hansen	10/31/02 – Construction permit issued for improvement to lagoon system. 10/31/03 – Update on construction project requested from Dept. engineer. 1/30/04 – Status report requested from Dept. staff. 2/24/04 – Letter sent to attorney regarding resolving appeal. 3/15/04 – Letter from facility attorney regarding proposed upgrade with sand filters. 4/26/04 – Dept. letter to MHP attorney requesting construction schedule for project. 5/17/04 – Letter from MHP attorney with new schedule. 10/18/06 – Letter to attorney regarding schedule for resolving appeal.
7/18/02	Mt. Pleasant, City of	6	Order/Penalty	WW	Hansen	\$500 penalty payment received for uncontested portion. 12/03 – Dept. letter with settlement offer. 1/30/04 – Dept. letter sent regarding settlement. 2/24/04 & 3/31/04 – Follow-up letters sent regarding settlement. 4/26/04 – Letter received from City attorney regarding Dept. settlement proposal.
7/23/02	Doug Wedemeyer	4	Order/Penalty	AFO	Clark*	4/30/04 – DNR letter sent.
8/25/02	Kenneth Dahlhauser	2	Order/Penalty	AFO	Clark	3/1/04 – Appellant's attorney agrees to send another settlement letter to client.
11/22/02	Schell Family Partnership	5	Order/Penalty	SW/HC	Tack	Follow-up letter sent 4/17/06. Working through Brownsfields process.
11/27/02	Chelsea, City of	5	Order/Penalty	WW	Hansen*	9/18/03 – DNR letter. Will monitor for compliance through winter of 2004.
2/10/03	Doug Osweiler	6	Order/Penalty	AFO	Clark	Negotiating before filing.
2/24/03	Ray Slach	6	Order/Penalty	AFO	Clark	4/29/04 – Settlement

						invitation letter sent.
3/04/03	Iowa Select Farms; Swartz Finisher Farm	2	Order/Penalty	AFO	Clark	5/28/04 – Dept. makes counter offer in response to appellant's settlement offer. 6/15/04 – Second round of offers.
4/04/03	Natural Pork Production II, LLP (03-AFO-13)	6	Order/Penalty	AFO	Clark*	1/02/04 – DNR letter.
4/25/03	Ag Processing Inc.	2	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
6/23/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Kerrigan Gilt/Union Co.)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/23/03	D & D Ag Enterprises LLC	4	Order/Penalty	AFO	Clark	Negotiating before filing.
7/10/03	Iowa Select Farms, L.P.; Iowa Select Farms, Inc. (Clarke/Union)	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/12/03	Southern Waste Handling, Inc.	5	Order/Penalty	AFO	Clark	Negotiating before filing.
8/29/03	Country Living Mobile Home Park	5	Order/Penalty	WW	Hansen	6/23/04 – Construction permit issued. Settlement offer will be made. 9/04 – Status report from Dept. engineer requested regarding project construction status. 10/05 – Status report requested from Dept. engineer. 11/05 – Facility upgrade completed. New NPDES permit requested for upgraded facility. 12/16/05 – Settlement offer received from MHP attorney.
9/05/03	Strawberry Point, City of	1	Order/Penalty	WW	Hansen*	1/5/04 – City to upgrade facilities, compliance will be monitored through 2005.
10/08/03	TEGH, Inc. (03-UT-15)	6	Order/Penalty	UT	Wornson	TEGH, Inc. no longer operator; questionable as a viable corporation. Review options.
10/27/03	B & Food & Gas, Inc. (03-UT-12)	6	Order/Penalty	UT	Wornson	B & H no longer operator; questionable as a viable corporation. Review options.
10/27/03	U.S. Nation Mart, Inc. (03-UT-14)	6	Order/Penalty	UT	Wornson	Proposed settlement terms.
12/02/03	Jeff Holland	2	Order/Penalty	AFO	Clark	Negotiating before filing.
12/15/03	AGP (Emmetsburg)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
12/29/03	T. Patrick Cashman; Laurie Cashman	5	Order/Penalty	AFO	Clark	Negotiating before filing.
1/21/04	Bob Kerrigan	4	Order/Penalty	AFO	Clark	Negotiating before filing.
1/30/04	John Schmall d/b/a Carpenter Bar & Grill	2	Order/Penalty	WS	Hansen	2/26/04 – Letter to WS attorney regarding resolving appeal. 9/04 – Per WS section, facility has returned to compliance.
2/09/04	Swine USA, LP	5	Order/Penalty	AFO	Clark	Negotiating before filing.
2/16/04	Iowa Ethanol, LLC; Reilly Construction Co., Inc.	2	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Otter Creek Ethanol, LLC	3	Order/Penalty	WW	Clark*	Meeting held 4/07/04.
2/17/04	Broin & Assoc., Inc. aka Iowa Ethanol, LLC	2	Order/Penalty	WS/WW	Clark*	Meeting held 4/07/04.
2/18/04	Gettler Dairy, Inc.; Dave and Kristen Gettler	4	Order/Penalty	AFO	Clark	Negotiating before filing.
3/04/04	Tim Trostel	2	Order/Penalty	AFO	Clark	Negotiating before filing.
3/15/04	Iowa Falls, City of	2	Order/Penalty	WW	Hansen	6/04 – Dept. letter to City attorney regarding settlement. 8/06 – Letter from City attorney regarding resolving appeal. 10/06 – Letter to City attorney regarding settlement and setting case for hearing.
3/16/04	Axtell Finishers; James Axtell	2	Order/Penalty	AFO	Clark	7/29/04 – Dept. reject Axtell's settlement offer and inquires if immediate transfer to DIA is desired.
4/02/04	LeMars, City of	3	Order/Penalty	WW	Hansen	4/02/04 – Meeting held to

						discuss settlement. 1/05 – Tentative agreement reached on settlement.
4/08/04	Silver Creek Feeders	4	Permit Conditions	AFO	Clark	Negotiating before filing.
4/16/04	Ag Processing Inc. (Sheldon)	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
4/16/04	Ben Haven Mobile Home Park	1	Order/Penalty	WS	Clark	Negotiating before filing.
5/12/04	Ag Processing, Inc.	3	Permit Conditions	AQ	Preziosi	Continuing to negotiate.
5/18/04	Alton, City of	3	Order/Penalty	FP	Clark	Negotiating before filing.
5/25/04	CDI, LLC	6	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07, preceded by briefing and discovery schedules.
5/27/04	CDI – Charles City	2	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07, preceded by briefing and discovery schedules.
6/11/04	University of Iowa	6	NPDES Permit	WW	Hansen	Negotiating before filing.
6/18/04	CDI – Charles City	2	Title V Permit Determination	AQ	Preziosi	Hearing continued to 1/07, preceded by briefing and discovery schedules.
6/18/04	Phillip Renze	3	Order/Penalty	AFO	Clark	Negotiating before filing.
6/24/04	Jansma Cattle Co., Inc.	3	Order/Penalty	AFO	Tack*	Negotiating before filing.
6/28/04	Michael Veenstra; Alan Veenstra	5	Order/Penalty	AFO	Clark	Negotiating before filing.
6/28/04	Robin Hewer	6	Order/Penalty	AFO	Book	Hearing rescheduled for 6/30/06. Settled, no hearing – awaiting final settlement documents.
8/06/04	Eldora, City of	1	Permit Conditions	WW	Hansen	WW Permits drafted NPDES permit with revised permit limits and compliance schedule. Legal Services to draft amended order with interim limits. 10/06 – Letter to City resolving appeal. Revised construction permit issued by Dept.
10/08/04	Goose Lake, City of	6	Order/Penalty	WS	Hansen	10/06 – Letter to City regarding scheduling appeal for hearing.
10/12/04	Gary Hart	6	Order/Penalty	AQ/SW	Tack	Cleaning up property.
10/13/04	Charlie Van Meter; Van Meter Feedyard	5	Permit Conditions	WW	Clark	Negotiating before filing.
10/19/04	Cedar Rapids, City of	1	Order/Penalty	WW	Hansen*	To be set for hearing.
10/21/04	Eugene Kramer	1	Permit Denial	WR	Clark	Negotiating before filing.
10/26/04	Monty Unkrich	6	Order/Penalty	AFO	Book	Order rescinded, hearing dismissed
11/02/04	Mike Elsbernd	1	Order/Penalty	AFO	Book	Order and penalty affirmed. Inability to pay claim being evaluated by Department.
11/10/04	Ted T. Smith	3	Order/Penalty	AFO	Clark	Negotiating before filing.
12/06/04	Jerry Vander Platts	3	Order/Penalty	AFO	Book	Order and majority of penalty affirmed. Sent to DRF for collections 6/6/06.
12/10/04	IPSCO, Inc.	6	Permit Conditions	AQ	Preziosi	Hearing continued to 11/06.
1/05/05	S.J. Louis Construction	5	Order/Penalty	WW	Hansen	To be set for hearing. 5/31/06 – Letter regarding appeal sent to company. Follow-up letter to be sent. 10/06 – Letter to company regarding scheduling appeal for hearing.
1/20/05	Pleasant Hill, City of	5	Order/Penalty	WW	Hansen	4/08/05 – Meeting with City regarding appeal and settlement. City made settlement offer regarding penalty. Offer rejected by DNR. City to provide further response by 5/05. No response received. To be set for hearing. 5/31/06 – Letter to City Attorney regarding appeal. Letter received from City Attorney regarding appeal. 10/06 – Dept. letter to City attorney

						regarding appeal and scheduling of hearing.
1/20/05	Monty Branstad	2	Order/Penalty	AQ/SW	Preziosi	Hearing held 8/21/06. Posthearing brief filed 10/2/06. Waiting for ruling.
1/24/05	Lawler, City of	4	Order/Penalty	WW	Hansen	10/06 – Letter to City about resolving appeal.
2/04/05	Honey Creek Campground	4	Order/Penalty	WW	Hansen	12/07/05 – Telephone call with Honey Creek attorney regarding hearing and compliance issues. 3/22/06 – Meeting at FO 4 with wastewater owner and attorney. 4/5/06 – FO4 inspection of campground. 5/12/06 – FO letter to facility regarding inspection. 5/22/06 – Letter received from Honey Creek attorney requesting waiver of penalty in view of inspection. Letter to Honey Creek attorney rejecting request to waive penalty.
2/17/05	CDI, LLC	2	Permit Conditions	AQ	Preziosi	Hearing continued to 1/07, preceded by briefing and discovery schedules
2/24/05	Mt. Joy Mobile Home Park	1	Order/Penalty	WW	Hansen	10/06 – Letter to MHP regarding settlement of appeal.
3/08/05	Randy Griffin	5	Order/Penalty	AQ/SW	Tack	Clean-up underway.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT-02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Settled. Waiting for signatures. Hearing postponed.
3/16/05	S.K. Food and Gas, Inc.; DIWAN LLC 05-UT-02/Brady St., Davenport 8606991	6	Order/Penalty	UT	Wornson	Settled. Waiting for signatures. Hearing postponed.
3/23/05	IPSCO (Muscatine)	6	Permit Conditions	AQ	Preziosi	Hearing continued to 11/06.
3/25/05	Hoover Land Corp.	2	Order/Penalty	WS	Hansen	Negotiating before filing.
4/04/05	Ruby Field; Ed Grafke	6	Order/Penalty	UT	Wornson	Financial inability claimed. Bank foreclosing. Request inability to pay documentation; discuss with bank.
4/05/05	Dirk D. Graves	4	Order/Penalty	AQ	Tack	Clean –up underway.
5/02/05	Goetsch Trucking and Seed Co.	3	Order/Penalty	HC	Wornson	Hearing held. Briefs due 9/15/06.
5/25/05	Iowa Quality Beef Cooperative	5	Order/Penalty	WW	Hansen	6/26/06 – FO meeting with company officials to discuss reopening of plant. 7/12/06 – FO inspection of plant. 10/06 – To be set for hearing.
8/05/05	Scott Lenz	4	Order/Penalty	AFO	Book	Waiting to hear from producer.
8/11/05	Douglas Pudenz	4	Order/Penalty	AFO	Book	Waiting to hear from producer.
11/21/05	CDI, LLC	2	Construction Permit	AQ	Preziosi	Hearing continued to 1/07, preceded by briefing and discovery schedules
2/27/06	Greig & Co., Inc.	3	NPDES Permit	WW	Clark	Negotiating before filing.
3/07/06	Larry Bergen	2	Order/Penalty	AQ/SW	Schoenebaum	Entry of default judgment is now final. Mailed Consent Amendment 10/12/2006 which offered Mr. Bergen the opportunity to enter into a payment plan. The plan requires 10-\$200.00 payments, due the 1st of each month beginning November 1, 2006. If one payment is missed all remaining payments become due immediately.
3/23/06	Larry Krogman	3	Order/Penalty	AFO	Book	Waiting to hear from producer.

3/28/06	Jordan Branstad; Edward Branstad	2	Order/Penalty	AQ/SW	Preziosi	Hearing held 8/21/06. Posthearing brief filed 10/2/06. Waiting for ruling.
4/07/06	Alan Bakker	3	Order/Penalty	AFO	Book	ALJ affirmed decision and penalty.
4/10/06	Praxair, Inc.		Permit Conditions	AQ	Preziosi	Negotiating.
5/21/06	Good Connections, Inc.	5	Withdrawal of Redemption Center Approval	SW	Tack	Hearing set for 10/02/06.
6/21/06	David Carlisle	4	Order/Penalty	SW	Tack	Settled. Signed Consent Order returned by David Carlisle. Forwarded to Director. Order requires PPP and clean up.
8/07/06	Mill Park Feedlot, Inc.	4	Order/Penalty	AFO	Book	Settled. Consent amendment with producer for signature.
8/09/06	Cargill (Eddyville)	5	Permit Conditions	AQ	Preziosi	Waiting to hear from Cargill engineer. Meeting will be set with technical staff.
8/15/06	Sheffield, City of	2	Design Standard	WW	Hansen	10/06 – Resolved. Dept. granted variance request. Letter sent regarding closing appeal.
8/28/06	Winnebago Industries, Inc.	2	Title V Permit	AQ	Preziosi	Will be consolidated with CDI and Winnebago cases above.
10/06/06	Ted Dickey dba Dickey Farms	6	Order/Penalty	AQ/SW/AF O	Book	New case.
10/26/06	XEthanol Biofuels, LLC	1	Permit Conditions	AQ	Preziosi	New case.

Attorney General Referrals Report

Name, Location and Number	Region	Program	Alleged Violation	DNR Action	New Updated Status	or Date
Aldag, Travis Ida Co. (3)		Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred Petition Filed Answer Filed	7/18/05 11/29/05 12/01/05
Bridges Bay Resort, LLC Spirit Lake (3)	NEW	Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred	9/19/06
Bulk Petroleum Corporation 28 Sites (1) (6)		Underground Tank	Operation and Maintenance Violations	Referred to Attorney General	Referred	6/19/06
Clinton, City of (6)		Wastewater	Compliance Schedule; Discharge Limits	Referred to Attorney General	Referred	9/19/05
Des Moines, City of; Metropolitan WW Reclamation Authority (5)		Wastewater	Compliance Schedule	Referred to Attorney General	Referred	8/15/06
De Vos, Harold and Sharon Rock Rapids (3)	NEW	Air Quality Solid Waste Wastewater	Open Burning; Illegal Disposal; Operation Without Permit	Order	Referred	9/19/06
Dos, Jim Black Hawk Co. (1)	UPDATED	Animal Feeding	Failure to Submit Plan	Order/Penalty	Referred Petition Filed	7/18/05 11/29/05

		Operation			Answer Filed Consent Decree (\$5,000/Civil; \$3,630/Admin.; Injunction)	12/28/05 11/06/06 9/27/06
Farmers Co-Operative Society Sioux Center (3)		Animal Feeding Operation	Discharge Limits; Prohibited Discharge – Confinement/Open Feedlot; Land Application Separation Distance; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	Referred	3/20/06
General Motor Corporation Sioux City (3)	NEW	Hazardous Condition	Remedial Action	Order	Referred	9/19/06
Heisdorffer, Leland Keokuk Co. (6)		Air Quality Solid Waste	DNR Defendant	Defense	Petition Filed (No original notice served) IDNR's Motion to Dismiss/Strike Hearing Date Trial Date	10/06/05 8/07/06 9/01/06 10/12/06
Kruse Dairy Farm, Inc. Dyersville (1)		Animal Feeding Operation	Failure to Submit Plan	Order/Penalty	Referred	12/19/05
Landfill of Des Moines #4 Des Moines (5)		Solid Waste	Operation Permit Violations – Other	Referred to Attorney General	Referred	4/17/06
Leigh, Marsha Glenwood (4)		Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Defendant's Motion to Dismiss State's Resistance/Motio n to Dismiss Motion to Intervene Hearing on Motion to Dismiss Ruling Denying Motion to Dismiss Resistance to Motion to Intervene Hearing on Motion to Intervene Ruling Denying Motion to	9/20/04 3/29/05 4/20/05 5/02/05 5/12/05 5/23/05 5/23/05 5/23/05 6/27/05 6/29/05 12/05/05 9/12/05 12/7/05

						Intervene Hearing on Defense Motions Motion for Judgment on Default Order Granting Default Judgment (\$100,000/Civil; \$10,000/Admin. & Injunction)
Miller, Albert Kalona (6)	NEW	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to Attorney General	Referred	9/19/06
Miller, Robert Batavia (6)		Air Quality Solid Waste	Open Burning; Illegal Disposal			
Mobile World LC Camanche (6)		Air Quality Solid Waste	Open Burning; Illegal Disposal	Order/Penalty	Referred Petition Filed Bankruptcy Petition Filed Plan for Reorganization Appearance by State in Bankruptcy Notice of Intent to Seek Default Appearance by Defendant Trial Date	8/16/04 4/08/05 4/13/05 4/13/05 6/17/05 3/03/06 3/08/06 11/19/06
Moellers, Kenneth Cresco (1)		Animal Feeding Operation	Prohibited Discharge – Open Feedlot; Failure to Report a Release; WQ Violations – General Criteria	Referred to AG	Referred	2/20/06
Organic Technologies; Tim Danley; Ken Renfrow; Mike Danley Warren Co. (5)		Solid Waste	Permit Violations	Referred to Attorney General	Referred Petition Filed Application for Temporary Injunction Temporary Injunction Trial Date Partial Judgment (Clean-up Order) Contempt Application Contempt Hearing Date Contempt Finding and Civil Penalty (\$100,000 and 30 Days in Jail – Suspended until 7/8/03) Hearing	12/15/97 10/02/98 2/04/99 4/19/99 9/13/00 9/28/00 12/12/02 2/20/03 2/20/03 7/09/03 8/01/03 8/01/03 8/20/03 9/18/03 4/16/04 12/10/04 1/05/05

Regarding
Contempt
Order Regarding
Bond/Cleanup
Deadline
Bond Posted
State Objections
to Bond
Ruling Denying
Objections to
Bond
Status Hearing
Date
Hearing on
Motion to Extend
Cleanup
Deadline
Order Reinstating
\$100,000 Civil
Penalty

Pedersen, Dean Laurens (3)	Animal Feeding Operation	Failure to Update Plan	Referred to Attorney General	Referred	4/17/06	
Pellett Chemical Co., Inc. Wiota (4)	Underground Tank	Failure to Submit Tier 2 Site Assessment	Referred to Attorney General	Referred	6/19/06	
Peterson, David Lake Mills (2)	Animal Feeding Operation	Application in Excess of Crop Usage Rate; Prohibited Discharge – Confinement; Failure to Report a Release; WQ Violations – General Criteria	Referred to Attorney General	Referred	11/21/05	
Plymouth Dairy Farms Plymouth Co. (3)	Animal Feeding Operation	Prohibited Discharge – Confinement; Record Keeping; Application in Excess of Crop Usage Rate; Freeboard	Referred to Attorney General	Referred Petition Filed	9/19/05 1/10/06	
Roney, Jerry Huxley (5)	UPDATED	Underground Tank	Site Assessment	Order	Referred Petition Filed Application for Default Order Granting Default Motion to Set Aside Default Order Setting Aside Default Consent Decree (\$500/Civil; Injunction)	5/16/05 12/08/05 1/13/06 1/31/06 2/17/06 3/14/06 4/24/06
Roquette America Keokuk (6)	Air Quality	DNR Defendant	Defense	Petition Filed DNR's Answer DNR's	8/28/03 9/11/03	

Resistance to 9/11/03
 Temporary 9/11/03
 Injunction 9/29/03
 Hearing on 9/30/03
 Temporary 1/14/04
 Injunction 1/06/05
 DNR's Brief in 10/24/05
 Resistance 6/29/05
 Roquette's Brief 6/29/05
 Ruling on 4/24/06
 Temporary 4/24-28/06
 Injunction 5/25/06
 Trial Scheduling
 Conference 6/020/06
 Trial Date 6/19/06
 Motion for 6/21/06
 Continuance 7/05/06
 Order Granting
 Continuance
 Trial Date
 Trial
 Roquette's
 Request to
 Reopen
 Evidence
 IDNR Resistance
 to Reopening
 Evidence
 Roquette's Reply
 to Resistance
 IDNR
 Motion/Supp.
 Resistance
 Order Denying
 Roquette's
 Request
 to Reopen
 Evidence

Roquette America, Inc. Keokuk (6)	NEW	Air Quality	Construction Permit	Without	Referred to Attorney General	Referred	9/19/06
Rose Bowl, The Mason City (2)		Drinking Water	Monitoring/Reporting – Bacteria, Nitrate; Public Notice		Referred to Attorney General	Referred	7/17/06
Schoenberr, R. B. d/b/a Long Branch Tavern Monmouth (1)		Drinking Water	Permit Renewal		Orders/Penalties	Referred Court Order Re-Referred Petition Filed Application for Contempt Contempt Hearing Order for Contempt (\$3,000 fine) Arrest Warrant Issued Contempt/Tempo rary Injunction Hearing Temporary	6/20/97 12/09/98 11/21/02 3/11/05 3/11/05 4/01/05 8/05/05 4/01/05 5/03/05 5/03/05 7/06/05 8/05/05 8/05/05 1/31/06

				Injunction Granted Contempt Hearing Date Contempt Hearing Order Finding Defendant in Contempt \$3,000 Fine Amended Petition	
Simpson, Barry Worth Co.	Animal Feeding Operation	DNR Defendant	Defense	Petition Filed Answer Filed	10/18/04 11/04/04
SNF, Inc. dba Brand FX Body Company Pocahontas (3) NEW	Air Quality	Operational Violations	Referred to Attorney General	Referred	9/19/06
Stone v. Rembrand Enterprises, Inc. UPDATED	Animal Feeding Operation	DNR Defendant	Defense	Petition Filed State Motion to Dismiss Hearing Ruling Dismissing Damage Claims State's Motion for Summary Judgment Order Granting Continuance Hearing on Summary Judgment State's Supp. Reply to Plaintiff's Resistance to Motion for Summary Judgment Ruling Denying Motion for Summary Judgment	12/06/04 1/10/05 3/07/05 5/17/05 2/27/06 3/20/06 5/01/06 6/19/06 10/04/06
Williams, Dean Stuart (2)	Underground Tank	Remedial Action	Referred to Attorney General	Referred Petition Filed Answer Filed Motion for Partial Summary Judgment	10/17/05 12/08/05 12/23/05 6/05/06

Iowa Department of Natural Resources
Environmental Services Division
Report of Manure Releases

During the period September 1, 2006, through September 30, 2006, 2 reports of manure releases were forwarded to the central office. A general summary and count by field office is presented below.

Month	Total Incidents	Feedlot	Confinement Application	Land	Transport	Hog	Cattle	Fowl	Other	Surface Water Impacts
October	13 (15)	1 (0)	2 (6)	1 (6)	9 (3)	12 (13)	1 (2)	0 (0)	0 (0)	1 (2)
November	8 (9)	0 (2)	1 (4)	3 (1)	4 (2)	6 (6)	2 (2)	0 (0)	0 (1)	1 (1)
December	2 (2)	0 (0)	1 (2)	0 (0)	1 (0)	0 (2)	2 (0)	0 (0)	0 (0)	0 (0)
January	3 (0)	0 (0)	2 (0)	1 (0)	0 (0)	1 (0)	2 (0)	0 (0)	0 (0)	0 (0)
February	2 (1)	0 (0)	1 (0)	0 (0)	1 (1)	1 (0)	1 (0)	0 (1)	0 (0)	0 (0)
March	2 (1)	1 (0)	1 (1)	0 (0)	0 (0)	0 (0)	2 (1)	0 (0)	0 (0)	2 (1)
April	6 (6)	0 (0)	2 (2)	2 (1)	2 (3)	6 (5)	0 (1)	0 (0)	0 (0)	1 (0)
May	6 (3)	0 (1)	3 (1)	3 (0)	0 (1)	5 (2)	1 (1)	0 (0)	0 (0)	0 (0)
June	2 (2)	0 (0)	0 (1)	0 (0)	2 (1)	2 (0)	0 (2)	0 (0)	0 (0)	0 (0)
July	5 (3)	2 (1)	0 (2)	1 (0)	2 (0)	3 (2)	2 (1)	0 (0)	0 (0)	0 (2)
August	2 (1)	0 (1)	1 (0)	0 (0)	1 (0)	2 (1)	0 (0)	0 (0)	0 (0)	0 (1)
September	2 (2)	1 (0)	0 (1)	0 (0)	1 (1)	0 (1)	2 (1)	0 (0)	0 (0)	0 (0)
Total	53 (45)	5 (5)	14 (20)	11 (8)	23 (12)	38 (32)	15 (11)	0 (1)	0 (1)	5 (7)

(numbers in parentheses for the same period last year)

Total Number of Incidents Per Field this Month:

1	2	3	4	5	6
1	0	1	0	0	0

DATE: October/November 1, 2006

TO: EPC

FROM: Ed Tormey

RE: Enforcement Report Update

The following new enforcement actions were taken last month:

Name, Location and Field Office Number	Program	Alleged Violation	Action	Date
Rueter & Zenor Co. dba Rueter's Red Power, Carroll Co. (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order SEP	8/31/06

Monty Unkrich, Jefferson Co. (6)	Animal Feeding Operation	Failure to Submit Plan	Order Rescission	9/11/06
Dale Schumann, Buena Vista Co. (3)	Animal Feeding Operation	Failure to Submit Plan; Prohibited Discharge – Confinement; Failure to Report a Release	Payment Plan	9/12/06
Anthony Trucking, Inc. LeMars (3)	Wastewater	Operation Without Permit	Consent Order \$5,000	9/12/06
Bridges Bay Resort, LLC Spirit Lake (3)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to AG	9/19/06
De Vos, Harold and Sharon Rock Rapids (3)	Air Quality Solid Waste Wastewater	Open Burning; Illegal Disposal; Operation Without Permit	Referred to AG	9/19/06
Miller, Albert Kalona (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Referred to AG	9/19/06
General Motors Corp. Sioux City (3)	Hazardous Condition	Remedial Action	Referred to AG	9/19/06
Roquette America, Inc. Keokuk (6)	Air Quality	Construction Without Permit	Referred to AG	9/19/06
SNF, Inc. dba Brand FX Body Pocahontas (3)	Air Quality	Operational Violations	Referred to AG	9/19/06
John Kajewski, Palo Alto Co. (3)	Animal Feeding Operation	Failure to Update Plan	Consent Order \$1,500	9/25/06
Charles F. Deering Jr., Clayton Co. (1)	Animal Feeding Operation	Prohibited Discharge – Confinement; Operational Violations – Freeboard; Failure to Report a Release; WQ Violations – General Criteria	Consent Order \$5,000	9/25/06
Schenkelberg Implement Co., Carroll (4)	Air Quality	Open Burning	Consent Order \$500	9/25/06
Aspinwall Cooperative Co., Aspinwall (4)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order \$1,500	9/25/06
Tri-Star Petroleum, LLC Davenport (6)	Underground Tanks	UST Closure; Record Keeping	Consent Order \$6,000	9/25/06
MKKS, LLC (5 Sites) (5)	Underground Tanks	UST System Deficiencies	Consent Amendment	9/25/06
Waddell Metal Recycling, Inc. Blue Grass (6)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order \$3,000	10/02/06
Iowa Dept. of Corrections Anamosa (6)	Air Quality	Operation Without Permit; Monitoring/Reporting	Consent Order Stip. Penalties	10/02/06
Randy Rudolph Audubon Co. (4)	Animal Feeding Operation	Failure to Update Plan	Order/Penalty \$3,500	10/04/06
Jeffrey D. Griebel dba Hawkeye Pork O'Brien Co. (3)	Animal Feeding Operation	Failure to Submit Plan	Order/Penalty \$3,500	10/12/06

David Carlisle, Ringgold Co. (4)	Solid Waste	Illegal Disposal	Consent Amendment	10/20/06
Dennis Steib dba Tri-Pac Auto Salvage, Fort Dodge (2)	Air Quality Solid Waste	Open Burning; Illegal Disposal	Consent Order \$2,000	10/20/06
Mill Park Feedlot, Inc., Pottawattamie Co. (4)	Animal Feeding Operation	Prohibited Discharge – Open Feedlot	Consent Amendment	10/20/06
S.K. Food & Gas, Inc.; 4M; Brady Oil and Diwan, LLC, Davenport (6)	Underground Tanks	UST System Deficiencies	Consent Amendment	10/20/06
S.K. Food & Gas, Inc.; Diwan LLC; and 4M, LLC Davenport (6)	Underground Tanks	Site Check	Consent Amendment	10/20/06

**IOWA DEPARTMENT OF NATURAL RESOURCES
COMPLIANCE AND ENFORCEMENT BUREAU**

DATE: November 1, 2006

TO: Environmental Protection Commission

FROM: Ed Tormey

SUBJECT: Summary of Administrative Penalties

The following administrative penalties are due:

NAME/LOCATION	PROGRAM	AMOUNT	DUE DATE
Robert and Sally Shelley (Guthrie Center)	SW	1,000	3-04-91
Verna and Don Reed; Andrea Silsby (Union Co.)	SW	1,000	4-07-94
Elery Fry; Allen Fry; Becky Sandeen (Monroe Co.)	SW	6,000	1-20-96
Daryl & Karen Hollingsworth d/b/a Medora Store(Indianola)	UT	9,542	3-15-96
Robert Jeff White (Dallas Co.)	AQ/SW	10,000	7-14-97
Greg Morton; Brenda Hornyak (Decatur Co.)	SW/AQ/WW	3,000	11-04-98
Ray Stamper; Bryan Zenor (Polk Co.)	SW	2,000	12-12-98
Otter Creek Station (Dubuque Co.)	WS	325	3-04-99
Lindahl & Sons Salvage (Boone)	AQ/SW	10,000	11-29-00
R & R Ranch (Osceola)	WW	10,000	8-30-00
Alice Hillhouse; Hillhouse Real Estate Corp. (Denison)	UT	3,000	2-28-01
Teckenburg, Inc.; Jerry Teckenburg (Cedar Rapids)	UT	6,380	7-06-01
Donald and Marie Phillips (Milo)	WW	469	7-09-01
Keith Craig; The Farm (Council Bluffs)	UT	3,890	8-08-01
James Harter (Fairfield)	WW	1,780	8-01-01
Wisconsin North dba National Petroleum, Inc.	UT	5,000	8-04-01

(Clinton)

# Troy DeGroote; Casey DeGroote (Butler Co.)	AFO/AQ/S W	242	3-08-02
Charlotte Caves (Oskaloosa)	HC	10,000	4-03-02
# Practical Pig Corporation (Clinton Co.)	AFO	2,000	5-26-02
Mobile World, L.C. (Camanche)	WW	2,000	5-27-02
M-F Real Estate; Fred "Butch" Levell (Carter Lake)	HC	1,701	8-18-02
Midway Oil Co.; David Requet (Davenport)	UT	5,355	9-20-02
Dale Schaffer (Union Co.)	AQ/SW	10,000	11-05-02
Wilbur McNear d/b/a McNear Oil Co. (Onawa)	UT	3,930	12-17-02
Jeff Reed d/b/a Reed's Service (Lenox)	UT	7,250	1-12-03
	UT	32,690	2-28-03

U.S. PETRO, INC.; SSJG PETROLEUM; SUKHDEV SINGH

	UT	44,900	2-28-03
--	----	--------	---------

MIDWAY OIL CO.; DAVID REQUET; JOHN BLISS

Midway Oil Company (West Branch)	UT	7,300	5-03-03
Midway Oil Company (Davenport)	UT	5,790	5-03-03
Efren Valdez (Warren Co.)	SW	2,782	6-09-03
Mobile World LC (Clinton Co.)	SW	2,250	6-29-03
Albert Miller (Kalona)	AQ/SW	10,000	9-26-03
* Jerry Feilen and Rick Bain (Pottawattamie Co.)	AQ/SW	2,113	12-15-03
Robert L. Nelson (Orient)	UT	657	12-26-03
Mark Anderson (Des Moines Co.)	AQ/SW	6,188	3-22-04
Mike Phillips aka Jeff Phillips (Cambridge)	AQ	5,000	3-27-04
Mike Messerschmidt (Martinsburg)	AQ/SW	500	4-13-04
Interchange Service Co., Inc., et.al. (Onawa)	WW	6,000	5-07-04
R. Victor Hanks; Mobile World L.C. (Camanche)	WW	10,000	5-23-04
Emer Carlson (Fairfield)	AQ	6,500	6-01-04
#*Floyd Kroeze (Butler Co.)	AFO	1,500	6-01-04
Iowa Falls Evangelical Free Church (Iowa Falls)	WS	750	6-13-04
Mitchell Town Pump (Mitchell)	WS	2,080	6-16-04
# Dunphy Poultry (Union Co.)	AFO	1,500	6-27-04
Shane Preder (Ft. Madison)	AQ	477	7-12-04
James L. Heal d/b/a A-1 Domestic (Homestead)	SW/WW	1,800	7-16-04
Ranch Supper Club (Swisher)	WS	300	8-02-04
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000	8-03-04
#*James Boller (Kalona)	AFO	3,634	8-19-04
# Cash Brewer (Cherokee Co.)	AFO/SW	10,000	8-25-04
Spillway Supper Club (Harpers Ferry)	WS	1,500	9-06-04
David Niklasen (Shelby Co.)	SW	100	9-11-04
# Doorenbos Poultry; Scott Doorenbos (Sioux Co.)	AFO	1,500	10-09-04
T & T Corner Bar (McIntire)	WS	3,000	10-26-04
Rock N Row Adventures (Eldora)	WS	3,000	10-23-04
# Jason Fox (Audubon Co.)	AFO	1,000	11-27-04
# Norm Cleveringa (Lyon Co.)	AFO	750	11-27-04
Americana Bowl (Ft. Madison)	WS	100	11-28-04
Howard Traver, Jr. (Cass Co.)	SW	3,000	12-14-04
Valley Country Café; NOO Investment Co. (Cass Co.)	WS	5,000	2-18-05
Denzel Edwards (Cass Co.)	AQ/SW/HC	500	3-01-05
* Fran Oil Company (Council Bluffs)(3 Admin. Orders)	UT	4,300	4-09-05
# Mike Rausch; Justin Rausch (O'Brien Co.)	AFO	2,000	4-02-05
Virgil Ehlers; Ehlers Oil Co. (Soldier)	UT	8,040	4-23-05
ARC Communities 8 LLC; Sunrise MHP (Newton)	WW	2,000	4-23-05

Environmental Protection Commission Minutes

November 2006

Harold Linnaberry (Clinton Co.)	SW	1,000	5-18-05
#*Dennis VanDerWeide (Sioux Co.)	AFO	500	6-01-05
* Country Stores of Carroll, Ltd. (Carroll)	UT	1,658	6-06-05
Mehmert Tiling, Inc. (Cresco)	UT	8,849	6-10-05
Elery Fry; Allen Fry; Mel Fry; Ron Fry (Moravia)	SW	10,000	6-20-05
Fedler and Company; Tony Fedler (Mt. Pleasant)	HC	3,670	6-25-05
# Matt Hoffman (Plymouth Co.)	AFO	750	8-08-05
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	8,500	12-29-05
Vernon Kinsinger (Washington Co)	SW	3,930	12-31-05
* Paul Shimp & S & V Fence Co. (Eldridge) (\$950/SEP)	AQ	550	1-16-06
# Joel McNeil (Kossuth Co.)	AFO	2,500	1 21-06
Carl Cliburn (Wapello Co.)	AQ/SW	3,496	2-03-06
TOMA Properties, LLC (Washington)	WS	1,000	2-17-06
Robert Plendl; Plendl Brothers Trucking (Kingsley)	UT	3,000	2-25-06
#*Randy Hauan (Winnebago Co.)	AFO	1,092	4-03-06
Affordable Asbestos Removal, Inc. (Monticello)	AQ	7,000	4-28-06
* Dennis Gailey (Moorland)	AQ/SW	700	5-01-06
Jeff Albrecht (Humboldt Co.)	AQ	500	5-06-06
Edward Branstad; Jordan Branstad (Winnebago Co.)	AQ/SW	8,000	5-10-06
CRM Enterprises; Envirobrest, Inc. (Iowa City)	AQ	7,000	5-21-06
West Central Cooperative (Ralston)	WW	3,000	6-12-06
Point Builders LLC; Steve Crawford (Mason City)	WW	2,000	6-16-06
James L. Heal; A-1 Imports (Homestead)	WW/SW	10,000	6-18-06
Rock Valley Rural Water System	WS	4,000	7-05-06
#*Tony Mertens (Mt. Pleasant)	AFO	2,644	7-20-06
* Curt Kline; Connie Kline (Dunlap)	AQ	2,000	8-01-06
#*E & N Farms, Ltd. (Lyon Co.)	AFO	1,400	8-01-06
Michael Drea (Woodbury Co.)	AQ	6,000	8-13-06
#*Rick Halma (Lyon Co.)	AFO	1,500	9-01-06
#*Galen Drent (Boyden)	AFO	2,340	9-01-06
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	1,100	10-01-06
#*Dennis Kuehl (Cass Co.)	AFO	1,500	10-15-06
# Troy VanBeek (Lyon Co.)	AFO	3,500	10-16-06
# Lane Bachman (Calhoun Co.)	AFO	3,500	10-21-06
* Country Terrace Mobile Home Park (Ames)	WW	1,350	11-01-06
#*Dale Schumann (Buena Vista Co.)	AFO	2,500	11-01-06
#*Rick Nikkel (Jasper Co.)	AFO	1,000	11-01-06
* Crestview Mobile Home Park (Ames)	WW	2,750	11-01-06
Rueter & Zenor Co.; Rueters Red Power (Carroll)	AQ/SW	400	11-06-06
SEP			
# Ted Dickey dba Dickey Farms (Muscatine Co.)	AQ/SW/AFO	8,000	11-07-06
#*Greg Gerber (Lyon Co.)	AFO	250	11-15-06
#*Harvey Driesen (Sioux Co.)	AFO	2,750	11-15-06
* Midway Water & Lighting Co., Inc. (Marion)	WS	1,900	11-20-06
* John Danker (Lee Co.)	AQ/SW	3,746	11-22-06
* Tri Star Petroleum, LLC (Davenport)	UT	4,000	12-01-06
* Waddell's Metal Recycling (Blue Grass)	AQ	2,500	12-01-06
* Fred Miller; Earthworks Contracting (Quimby)	AQ	8,020	12-15-06
* Wayne Staab (Plymouth Co.)	AQ	250	1-01-07
#*Randy Gergen; R & D Farms (Sioux Co.)	AFO	1,875	1-15-07
#*Paul Rehder (O'Brien Co.)	AFO	1,125	2-01-07
#*Charles F. Deering, Jr. (Postville)	AFO	3,750	3-30-07
Anthony Trucking (Plymouth Co.)	WW	5,000	-----
# Randy Rudolph (Audubon Co.)	AFO	3,500	-----

# Jeffrey Griebel dba Hawkeye Pork (O'Brien Co.)	AFO	3,500	-----
Green Valley Mobile Home Park (Mt. Pleasant)	WW	5,000	-----
TOTAL		499,711	

The following cases have been referred to the Attorney General:

Long Branch Tavern (Monmouth)	WS	100
Long Branch Tavern (Monmouth)	WS	6,400
Long Branch Tavern (Monmouth)	WS	200
The Universal Assembly of Christians; Marsha Leigh	AQ/SW	10,000
Pat Kelly d/b/a Kelly Construction (Denison)	UT	1,860
Roger Ginger d/b/a L & L Standard (Everly)	UT	5,750
# Travis Aldag (Ida Co.)	AFO	3,000
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	7,300
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	6,000
Relative, Inc.; Doug Smuck (Des Moines)	UT	3,070
Relative, Inc.; Doug Smuck (Des Moines)	UT	600
Paul Underwood d/b/a Underwood Excavating (Cedar Rapids)	AQ	4,000
Randy Ballard (Fayette Co.)	FP	2,000
Edward Bodensteiner (Des Moines)	UT	3,200
Hofer's Danceland Ballroom (Walford)	WS	3,200
James LaFollette d/b/a Jim's Tree Service; Kurt Douglas (Marion Co.)	AQ/SW	2,000
Russell Zook d/b/a Haskin's Recycling (Washington Co.)	AQ/SW	5,000
#*Harold Unternahrer (Washington Co.)	AFO	700
Hofer's Danceland Ballroom (Walford)	WS	100
Phillips Recycling; Jeff Phillips (Story Co.)	WW	1,800
Jim Walker (Johnson Co.)	AQ/SW	3,000
Iowa Millenium Investors, LLC (Sumner)	UT	4,000
Jim Ledenbach d/b/a Paper Recovery Company (Cedar Rapids)	SW	5,000
Organic Technologies Corp.; Tim Danley; Ken Renfro (Warren Co.)	SW/WW	10,000
Plain Salvage Inc. (Sac City)	AQ/SW	10,000
Wisconsin North dba National Petroleum (Clinton)	UT	2,840
Bee Rite Tire Disposal; Jerry Yeomens (Marshall Co.)	SW	10,000
Marvin Oberly (Burlington)	WW	1,300
Mark Buringrud fdbs Carpenter Bar & Grill (Carpenter)	WS	2,500
Richard Davis (Monroe Co.)	AQ	8,000
Honey Creek Campground (Crescent)	WS	1,000
Ryan Barton; Theresa Barton (Kellerton)	AQ/SW	1,000
Mobile World LC (Camanche)	AQ/SW	10,000
Oran Pub & Grill (Fairbank)	WS	100
M.A., Inc.; Spring Grove Mobile Home Park (Burlington)	WW	7,000
M.A., Inc.; Westside Park for Mobile Homes (Lee Co.)	WW	7,000
Dave Paplow (Indianola)	AQ/SW	5,000
Meadow Mist Motel (Fayette Co.)	WS	500
Park View Motel (Oelwein)	WS	750
Plantation Village Mobile Home Park (Burlington)	WS	500

# Dean Pedersen (Pocahontas Co.)	AFO	450
TOTAL		156,220

The following administrative penalties have been appealed:

NAME/LOCATION	PROGRAM	AMOUNT
Dallas County Care Facility (Adel)	WW	2,500
Gerald and Judith Vens (Scott Co.)	FP	5,000
# Iowa Select Farms, L.P.; AG Waste Consultants (Hamilton Co.)	AFO	3,000
# Dan Witt (Clinton Co.)	AFO	3,000
Dallas County Care Facility (Adel)	WW	5,000
Kevin Wallerich (Keota)	SW/WW	500
# Doug Wedemeyer (Adair Co.)	AFO	2,500
Mt. Pleasant, City of	WW	500
# Kenneth Dahlhauser (Whittemore)	AFO	2,500
Stanley Siems (Hardin Co.)	AQ/SW	10,000
Schell Family Partnership (Boone Co.)	HC/SW	5,000
Chelsea, City of	WW	3,000
# Doug Osweiler (South English)	AFO	5,000
# Ray Slach (Cedar Co.)	AFO	3,000
# Iowa Select Farms, LP; Swartz Finisher Farm (Hardin Co.)	AFO	500
# Natural Pork Production, II LLC (Shelby Co.)	AFO	5,000
Roger Eblen; Eblen Develop.; (Whispering Woods- Council Bluffs) (10,000/each)	WW	20,000
# Iowa Select Farms, L.P.; Kerrigan Facility (Union Co.)	AFO	1,000
# D & D Ag Enterprises, LLC (Union Co.)	AFO	2,000
# Iowa Select Farms, Inc.; Clarke Sow (Clarke/Union Co.)	AFO	5,000
# Southern Waste Handling, Inc. (Mr. Ayr)	AFO	7,000
Country Living MHP (Altoona)	WW	5,000
Strawberry Point, City of	WW	10,000
B & H Food & Gas, Inc. (Davenport)	UT	10,000
U.S. Nation Mart, Inc. (Davenport)	UT	10,000
Tegh, Inc. (Bettendorf)	UT	8,500
# Jeff Holland (Winnebago Co.)	AFO	5,500
Pocahontas, City of	WW	5,000
# T. Patrick and Laurie Cashman (Deep River)	AFO	750
# Bob Kerrigan (Union Co.)	AFO	750
Carpenter Bar & Grill (Carpenter)	WS	10,000
# Swine USA; Davis Finishing Site (Clarke Co.)	AFO	750
# Gettler Dairy (Guthrie Co.)	AFO	5,000
Iowa Ethanol, LLC; Reilly Construction Co. (Worth Co.)	WW	10,000
Broin & Assoc., Inc.; Iowa Ethanol, LLC (Worth Co.)	WS/WW	10,000
Broin & Assoc., Inc.; Otter Creek Ethanol (Osceola Co.)	WW	10,000
# Tim Trostel (Butler Co.)	AFO	2,000
# James Axtell (Hardin Co.)	AFO	500
Iowa Falls, City of	WW	10,000

LeMars, City of	WW	9,000
Ben Haven Mobile Home Park (Quasqueton)	WS	3,000
Alton, City of	FP	5,000
# Jansma Cattle Co., Inc. (Lyon Co.)	AFO	10,000
# Phillip Renze; Doug Renze (Sac Co.)	AFO	2,000
# Michael Veenstra; Allan Veenstra (Mahaska Co.)	AFO	5,000
# Robin Hewer (Clinton Co.)	AFO	3,000
Marvin Bates (Iowa Co.)	AQ/SW/WW	10,000
# Dennis Rowenhorst (Sioux Co.)	AFO	3,000
F. J. Krob & Co. (Walker)	WW/HC	10,000
Gary Hart (Clinton)	AQ/SW	4,250
Cedar Rapids, City of	WW	5,000
Goose Lake, City of	WS	1,000
# Mike Elsbernd (Winneshiek Co.)	AFO	3,000
Leland Heisdorffer (Keokuk Co.)	AQ/SW/WW	10,000
# Ted T. Smith (Buena Vista Co.)	AFO	3,000
# Natural Pork Production II, LLC (Shelby Co.)	AFO	300
# Jerry Vander Platts (O'Brien Co.)	AFO	3,000
S. J. Louis Construction, Inc. (Pleasant Hill)	WW	5,000
Monty Branstad (Winnebago Co.)	AQ/SW	8,000
Pleasant Hill, City of	WW	10,000
Lawler, City of	WW	3,000
Honey Creek Campground (Pottawattamie Co.)	WW	1,000
Peeters Development Co.; Mt. Joy MHP (Scott Co.)	WW	10,000
Randy Griffin (Jasper Co.)	AQ/SW	5,000
Hoover Land Corp.; River Road Golf Club (Algona)	WS	1,375
Colleen Weber (Mitchell Co.)	AQ/SW	1,500
Dirk Graves (Glenwood)	AQ	1,000
Ruby Field, Inc.; Ed Grafke (Sigourney)	UT	5,112
Goettsch Trucking and Seed, Inc. (Galva)	HC	5,500
* Reginald Parcel (Henry Co.)	AQ/SW	860
Iowa Quality Beef Supply Cooperative (Tama)	WW	10,000
Larry Bergen (Worth Co.)	AQ/SW	2,000
# Douglas J. Pudenz (Carroll Co.)	AFO	8,000
# Scott Lenz (Carroll Co.)	AFO	8,000
# Larry Krogman (Lyon Co.)	AFO	3,000
# Alan Bakker (Sioux Co.)	AFO	6,000
David Carlisle (Ringgold Co.)	SW	3,500
# Mill Park Feedlot, Inc. (Pottawattamie Co.)	AFO	8,000
TOTAL		402,147

The following administrative penalties were paid last month:

NAME/LOCATION	PROGRAM	AMOUNT
Iowa Regional Utilities Assoc. SEP/Bremer Co. (4/20/06)	WS	8,400
Tri-Star Petroleum, LLC (Davenport)	UT	2,000

#*Dale Schumann (Buena Vista Co.)	AFO	500
#*Rick Nikkel (Jasper Co.)	AFO	250
* Midway Water & Lighting Co., Inc. (Marion)	WS	100
* Crestview Mobile Home Park (Ames)	WW	250
Aspinwall Cooperative (Aspinwall)	AQ/SW	1,500
* Country Terrace Mobile Home Park (Ames)	WW	110
#*Richard Beelner; Beelner 1 and 2 (Plymouth Co.)	AFO	200
#*Greg Gerber (Lyon Co.)	AFO	250
Anamosa, City of	WW	4,500
MKKS, LLC (Urbandale)	UT	15,700
MKKS, LLC (Windsor Heights)	UT	"
MKKS, LLC (West Des Moines)	UT	"
#*John Kajewski (Cylinder)	AFO	750
#*Rick Nikkel (Jasper Co.)	AFO	250
* Waddell's Metal Recycling (Blue Grass)	AQ	250
* Crestview Mobile Home Park (Ames)	WW	250
#*Charles F. Deering, Jr. (Postville)	AFO	1,250
# Jim Dos (Black Hawk Co.)	AFO	3,630
* Midway Water & Lighting Co., Inc. (Marion)	WS	100
* Wayne Staab (Plymouth Co.)	AQ	250
Tri-Pac Auto Salvage	AQ	2,000
# Cody Farms Inc. (Griswold)	AFO	375
# Helen Osweiler (Keokuk Co.)	AFO	3,500
#*Dale Schumann (Buena Vista Co.)	AFO	500
S.K. Food & Gas, Inc.; Diwan LLC (Davenport)	UT	3,000
#*Paul Rehder (O'Brien Co.)	AFO	375
#*Randy Gergen; R & D Farms (Sioux Co.)	AFO	375
Benton County Sanitary Landfill	SW	6,000
Schenkelberg Implement Co. (Carroll)	AQ	500
* John Danker (Lee Co.)	AQ/SW	138
#*Harvey Driesen (Sioux Co.)	AFO	250
* Fred Miller; Earthworks Contracting (Quimby)	AQ	300
#*Greg Gerber (Lyon Co.)	AFO	250
* John Danker (Lee Co.)	AQ/SW	138
* Country Terrace Mobile Home Park (Ames)	WW	110
* Waddell's Metal Recycling (Blue Grass)	AQ	250
		58,551
	TOTAL	

The following penalties were collected by Revenue during the Month of September:

McMahon's Bar & Ballroom (Andover) (PAID IN FULL)	WS	85
Daryl & Karen Hollingsworth d/b/a Medora	UT	158
Store(Indianola)		
Daryl & Karen Hollingsworth d/b/a Medora	UT	159
Store(Indianola)		
Shane Preder (Ft. Madison)	AQ	68
* Reginald Parcel (Henry Co.)	AQ/SW	139
Carl Cliburn (Wapello Co.)	AQ/SW	4
	TOTAL	613

Total Monies Received in September 58,116

**Iowa Department of Natural Resources
Environmental Services Division
Report of Hazardous Conditions**

During the period September 1, 2006, through September 30, 2006, 42 reports of hazardous conditions were forwarded to the central office. A general summary and count by field office is presented below. This does not include releases from underground storage tanks, which are reported separately.

Month	Total Incidents	Substance				Mode				
		Agri-chemical	Petroleum Products	Other Chemicals	Transport Facility	Fixed	Pipeline	Railroad	Fire	Other*
October	48 (52)	6 (2)	29 (29)	13 (21)	13 (17)	28 (27)	0 (2)	2 (2)	1 (0)	4 (4)
November	55 (68)	10 (14)	35 (33)	10 (20)	16 (21)	28 (34)	0 (1)	3 (2)	1 (0)	7 (10)
December	51 (58)	5 (8)	32 (34)	14 (16)	18 (19)	29 (29)	2 (3)	1 (2)	0 (0)	1 (5)
January	62 (58)	4 (6)	35 (36)	23 (16)	18 (20)	32 (28)	0 (1)	1 (1)	0 (1)	11 (7)
February	49 (46)	2 (4)	36 (25)	11 (17)	10 (12)	35 (24)	1 (4)	2 (2)	0 (1)	1 (3)
March	54 (70)	2 (11)	40 (43)	12 (16)	16 (25)	29 (33)	2 (1)	2 (1)	0 (3)	5 (7)
April	96 (102)	32 (35)	39 (46)	25 (21)	26 (32)	56 (51)	1 (2)	3 (3)	1 (3)	9 (11)
May	59 (60)	14 (20)	34 (29)	11 (11)	24 (23)	29 (29)	0 (1)	1 (3)	1 (0)	4 (4)
June	83 (88)	19 (12)	43 (56)	21 (20)	28 (22)	43 (52)	0 (2)	0 (6)	1 (1)	11 (5)
July	56 (70)	4 (7)	27 (37)	25 (26)	6 (23)	31 (33)	3 (2)	3 (4)	0 (0)	13 (8)
August	68 (85)	10 (13)	49 (48)	9 (24)	16 (23)	41 (46)	3 (2)	4 (2)	2 (1)	2 (11)
September	42 (72)	1 (10)	32 (39)	9 (23)	10 (17)	24 (33)	0 (1)	2 (2)	2 (0)	4 (19)
Total	723 (829)	109 (142)	431 (455)	183 (231)	201 (254)	405 (419)	12 (22)	24 (30)	9 (10)	72 (94)

(numbers in parentheses for same period last year)

Total Number of Incidents Per Field this Month:

*Other includes dumping, theft, vandalism and unknown

1	2	3	4	5	6
7	4	7	6	10	8

GENERAL DISCUSSION

Donna Buell said that the sustainable funding meeting had a great turnout. It's looking very encouraging.

Wayne Gieselman gave an overview of the items for the December 5th meeting:

- ❖ Update on the nutrient standards
- ❖ Two Demand for Hearings on hog confinements (Calhoun and Adair County)
- ❖ Three referrals
- ❖ Discussion of manure on soybeans

Donna Buell said that we need to interact with the new legislators. I would like the Commission to discuss this further at the December meeting.

NEXT MEETING DATES

Tuesday, December 5, 2006 – DNR Air Quality Building – 7900 Hickman Road, Clive

ADJOURNMENT

Motion was made by Lisa Davis Cook to adjourn the meeting. Seconded by Mary Gail Scott. Motion carried unanimously.

With no further business to come before the Environmental Protection Commission, Chairperson Jerry Peckumn adjourned the meeting at 4:55 p.m., Tuesday, November 14, 2006.

Jeffrey R. Vonk, Director

Jerry Peckumn, Chair

Lisa Davis Cook, Secretary

INDEX

2

2007 EPC Meeting Schedule, 43

A

Adjournment, 1

Adoption of Agenda, 4

Air Quality Program Rules - Updates,

Revisions, and Additions

Notice of Intended Action

Chapters 21, 22, 23, 25 and 34, 36

Approval of Minutes, 4

Aquadrill

STATEMAP Geologic Mapping Project

Contract, 11

C

Call to Order, 4

Ch. 103.3, 104.26, 112.31, 114.31, 115.31,
118.16, 120.13, 121.8, 122.28, 122.29
and 123.12 & to amend rules 105.14,
106.18

Financial Assurance Requirements, 40

Proposed Rule, 40

Chapter 215

Mercury Added Switch Recovery from
End-of-Life Vehicles

Final Rule, 15

Chapter 61

Water Quality Standards, Section 401

Certification of Section 404 Nationwide
Permits (NWP)

Notice of Intended Action, 39

Chapter 64

Sewer Extension Construction Permit
Provisions

Proposed Rule, 42

Chapter 65

Subrules prohibiting liquid
manure/settled open feedlot effluent
application to soybeans

Notice of Intended Action, 29

Chapter 81

Operator Certification-Public Water
Supply Systems And Wastewater
Treatment Systems

Proposed Rule, 41

Chapters 21, 22, 23, 25 and 34

Air Quality Program Rules - Updates,
Revisions, and Additions

Notice of Intended Action, 36

Chapters 67

Standards for the Land Application of
Sewage Sludge

Proposed Rule, 43

Commissioners Present, 4

Contract

Aquadrill

STATEMAP Geologic Mapping
Project, 11

Salem Associates

Renewal for Water Supply Database
Programming, 14

University of Iowa

Monitoring subsurface water quality,
10

USGS

StreamStats, 12

Contracts

Nonpoint Source Pollution Control
Project, 5

D

Directors Remarks, 4

F

Final Rule

Chapter 215

Mercury Added Switch Recovery
from End-of-Life Vehicles, 15

Financial Assurance Requirements

Proposed Rule

Ch. 103.3, 104.26, 112.31, 114.31,
115.31, 118.16, 120.13, 121.8,
122.28, 122.29 and 123.12 & to
amend rules 105.14, 106.18, 40

G

General Discussion, 1
Goettsch Trucking and Seed, Inc. & Thomas
Goettsch
Proposed Contested Case Decision, 35

M

Mercury Added Switch Recovery from End-
of-Life Vehicles
Final Rule
Chapter 215, 15
Monitoring subsurface water quality
Contract
University of Iowa, 10
Monthly Reports, 44

N

Next Meeting Dates, 1
Nonpoint Source Pollution Control Project
Contracts, 5
Notice of Intended Action
Chapter 113 Rescind
Sanitary Landfills-Municipal Solid
Waste and adopt the following new
chapter in lieu thereof as 567-
Chapter 113 "Sanitary Landfills for
Municipal Solid Waste -
Groundwater Protection Systems for
the Disposal of Non-Hazardous
Wastes", 21
Chapter 61
Water Quality Standards, Section
401 Certification of Section 404
Nationwide Permits (NWP), 39
Chapter 65
Subrules prohibiting liquid
manure/settled open feedlot effluent
application to soybeans, 29
Chapters 21, 22, 23, 25 and 34
Air Quality Program Rules -
Updates, Revisions, and Additions,
36

O

Operator Certification-Public Water Supply
Systems And Wastewater Treatment
Systems
Proposed Rule
Chapter 81, 41

P

Proposed Contested Case Decision
Goettsch Trucking and Seed, Inc. &
Thomas Goettsch, 35
Proposed Rule
Ch. 103.3, 104.26, 112.31, 114.31,
115.31, 118.16, 120.13, 121.8, 122.28,
122.29 and 123.12 & to amend rules
105.14, 106.18
Financial Assurance Requirements,
40
Chapter 64
Sewer Extension Construction
Permit Provisions, 42
Chapter 81
Operator Certification-Public Water
Supply Systems And Wastewater
Treatment Systems, 41
Chapters 67
Standards for the Land Application
of Sewage Sludge, 43

R

Referrals to the Attorney General, 33
Renewal for Water Supply Database
Programming
Contract
Salem Associates, 14

S

Salem Associates
Renewal for Water Supply Database
Programming
Contract, 14
Sewer Extension Construction Permit
Provisions
Proposed Rule
Chapter 64, 42

Standards for the Land Application of
Sewage Sludge
Proposed Rule
Chapters 67, 43
STATEMAP Geologic Mapping Project
Contract
Aquadri11, 11
StreamStats
Contract
USGS, 12
Subrules prohibiting liquid manure/settled
open feedlot effluent application to
soybeans
Notice of Intended Action
Chapter 65, 29

U

University of Iowa
Monitoring subsurface water quality
Contract, 10
USGS
StreamStats
Contract, 12

W

Water Quality Standards, Section 401
Certification of Section 404 Nationwide
Permits (NWP)s
Notice of Intended Action
Chapter 61, 39